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Frederick Guy Browne

and

William Henry Kennedy

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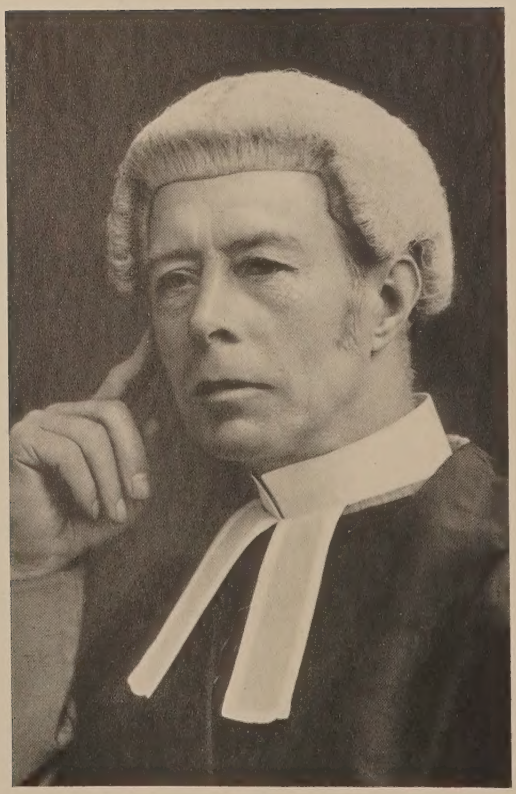

Mr. Justice Avory.

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IN GRATITUDE TO EACH OF THE MANY KIND FRIENDS

WHO HAVE SO GENEROUSLY AIDED ME IN THE PREPARATION OF THIS VOLUME,

THE FAULTS IN WHICH, HOWEVER, ARE MINE

CONTENTS.

PAGE

Introduction, - - - - - - - - - - - - - 1
Leading Dates, - - - - - - - - - - - - - 28

THE TRIAL—

FIRST DAY—MONDAY, 23RD APRIL, 1928.

The Indictment, - - - - - - - - - - - - 31
Application by the Prisoner Browne, - - - - - - - - 31
Application by the Prisoner Kennedy, - - - - - - - - 39
The Solicitor-General's Reply, - - - - - - - - - 40
Opening Speech for the Prosecution, - - - - - - - - 41

Evidence for Prosecution.

Frederick Masters, - - - 52
Eustace Charles Wyrall, - - 52
Mrs. Rose A. E. Gutteridge, - 52
Sydney James Taylor, - - 53
William Alec Ward, - - - 53
Alfred Perritt, - - - - 54
John Crockford, - - - 55
Alfred Norman, - - - - 56
Dr. Robert Arnold Woodhouse, - 57
William M'Bride, - - - 59
Dr. Robert Arnold Woodhouse (recalled), - - - - - 59
Mrs. Mary Eliza Siddals, - - 61
John Frederick Dyson, - - 62
George Townson, - - - 63
Cyril Albert Dadswell, - - 63
Benjamin Stow, - - - 64
Raymonde le Fevre, - - - 64
Thomas George Wilson, - - 65
William Ernest Stevens, - - 65
Albert John M'Dougall, - - 67
Alfred Edmonds, - - - 68
Charles Hearn, - - - - 68

SECOND DAY—TUESDAY, 24TH APRIL, 1928.

Evidence for Prosecution (continued).

John Miller, - - - - 70
William Barker, - - - 72
Frank Bevis, - - - - 75
Albert Haines, - - - - 77
John Harris, - - - - 78
Harold Hawkyard, - - - 83
Dr. Gerald Roche Lynch, - - 86
Dr. Edward Richardson Lovell, - 86
Owen Jones, - - - - 90
John Harris (recalled), - - 90
Eliza Trewin, - - - - 91
John Pearce, - - - - 91
William Ernest Stone, - - 91
Joseph Thomas, - - - 92
David Staunton, - - - 92
William Guthrie Mattinson, - 92
Albert Kirschner, - - - 97
James Berrett, - - - - 98

THIRD DAY—WEDNESDAY, 25TH APRIL, 1928.

Evidence for Prosecution (concluded).

George Henry Ibbitson, - - 105
Robert Churchill, - - - 107
William Fox, - - - - 108
George Henry Perry, - - 109

PAGE

Opening Speech for the Prisoner Kennedy, - - - - - - - 109
Opening Speech for the Prisoner Browne, - - - - - - - - 113

Evidence for the Defence.

Frederick Guy Browne, - - 115 | Lillian Miller, - - - - 152
William Geddes, - - - 151 | Arthur Theodore Finch, - - 152
Mrs. Annie Kemp, - - - 152 | Mrs. Caroline Ann Browne, - 153

FOURTH DAY—THURSDAY, 26TH APRIL, 1928.

Evidence for Defence (concluded).

Mrs. Caroline Ann Browne (recalled), - - - - - - - 156
Evidence for Accused Browne closed, - - - - - - - 159
John Harris (recalled), - - - - - - - - - 159
Statement by Accused Kennedy, - - - - - - - - 160
John Frederick Dyson (recalled), - - - - - - - - 161

Closing Speech for the Accused Browne, - - - - - - - 163
Closing Speech for the Accused Kennedy, - - - - - - - 165
Closing Speech for the Crown, - - - - - - - - - 168

FIFTH DAY—FRIDAY, 27TH APRIL, 1928.

Charge to the Jury, - - - - - - - - - - - - 169
Verdict, - - - - - - - - - - - - - - 187
Sentence, - - - - - - - - - - - - - - 188

APPENDICES.

A. Proceedings before the Magistrates, - - - - - - - 193
B. The Appeal, - - - - - - - - - - - 208
C. Kennedy's last Letter to his Wife, - - - - - - - 213
D. From *The Morning Post*, 4th October, 1929, - - - - - 217

LIST OF ILLUSTRATIONS.

Mr. Justice Avory, - - - - - - - - - - *Frontispiece*

Fig. 1. Breech shield of Browne's revolver, - - - - *facing page* 23

Fig. 2. Base of the cartridge and bullets, - - - - ,, 24

Fig. 3. Breech shield of revolver and base of cartridge, - ,, 25

Mr. E. F. Lever, - - - - - - - - - - ,, 33

Scene of the murder, - - - - - - - - - ,, 43

Plan of neighbourhood, - - - - - - - - - ,, 53

Browne's stockingette mask, - - - - - - - - ,, 73

Mr. H. D. Roome, - - - - - - - - - ,, 83

Chief Inspector James Berrett, - - - - - - - ,, 99

Mr. Frank J. Powell, - - - - - - - - - ,, 109

Frederick Guy Browne, - - - - - - - - - ,, 113

Room in Browne's Garage, - - - - - - - - ,, 145

William Henry Kennedy, - - - - - - - - ,, 160

Facsimile of portion of Kennedy's last letter to his wife, - ,, 213

BROWNE AND KENNEDY.

INTRODUCTION.

I.

The Murder.

Police Constable Gutteridge, a member of the Essex Constabulary, was stationed at Stapleford Abbotts, half-way, that is to say, five miles each way, between Romford and Ongar, where he resided with his wife.[1] In the evening of Monday, 26th September, 1927, he was on duty, and also had to go out again early the next morning to meet another constable, Sydney James Taylor, also of the Essex Constabulary, who was stationed at Lambourne End. The meeting, at what is designated a "conference point," was near Grove House, Howe Green, on the Romford-Ongar road. The neighbourhood is rural, lonely, and quiet, well away from the main road between London and Chelmsford, unlit at night, little frequented by traffic. The two men met at three o'clock, parting some half-hour later, Taylor returning to his home without misadventure.

Shortly before six o'clock Gutteridge's dead body was discovered lying beside the road, some 600 yards away from the spot where he had met Taylor and about a mile from his own home. He had been shot, and a trail of blood led from the other side of the road to the bank against which he had fallen. Close to his helmet, which was lying on the ground beside him, lay his notebook, his pencil being gripped in his right hand. There were no evidences of a struggle, and it seemed that he must have been about to take particulars from some person or persons whom he had met. As his torch was in his pocket, and there was no lamp-post anywhere near, he must have been writing by a light that, presumably, came from some vehicle. There were the marks of the wheels of a motor car that had run against the bank, and

[1] The story is made clear by the plan, p. 53.

close to this he must have been standing. He had been shot four times, twice in the cheek, one of these wounds being such as would cause death almost immediately, and, with singular brutality, a bullet had been fired into each eye.

Somewhere about half-past two that morning a Morris-Cowley car had been stolen from the garage of Dr. Lovell at Billericay. It was a four-seated touring car, index mark T.W. 6120, painted blue, 1927 model, chassis No. 160534, engine No. 183965. Evidence was soon forthcoming that tended to prove that this car had been driven away toward London, not along the direct route, but by one that led to the Romford-Ongar road, and so past the spot where the murder had been committed. At seven o'clock that morning the car was found abandoned at Brixton. In it was discovered a spent cartridge case and on the running board were marks of blood.

As it was not until January of the following year that the police were able to collect sufficient evidence to justify them in bringing an accused before a magistrate, the public very naturally concluded that here was another murder mystery which would not be solved.

A man named Browne was carrying on business at a garage near Clapham Junction, and on 20th January he was arrested and charged with stealing a motor car in the previous November. When he, his car, and his premises were searched, articles were found that immediately confirmed the vague suspicions which had long been aroused that he was connected with the murder of Gutteridge. Chief Inspector Berrett, of the C.I.D., New Scotland Yard, informed Browne that he would have to account for his time during the night of 26th September of the previous year.

A man named Kennedy was arrested at Liverpool, on the charge of being concerned with Browne in the theft of the car. He was brought to London, and on 28th January made an important statement to Chief Inspector Berrett at New Scotland Yard. He admitted that he had been with Browne at Billericay on the night of the murder, denying that he had taken any active part in the crime, and asserting that it was solely the work of Browne.

It is unnecessary to pursue the story further, as it is so clearly and fully set forth in the trial. But it will be well to examine the careers and character of the two men.

Introduction.

II.

Browne.

Frederick Guy Browne was not despicable; he had in him the makings of a Robin Hood or a high-grade bushranger. Had he been "caught" young, placed in helpful and suitable surroundings, and led by decent company, his good qualities and physical gifts would have suited him for service in, say, a mounted police force or for frontier work. As it was, he grew up a desperado and an outlaw, his powers being degraded into ferocities. One who came into close contact with him before and during his trial says that "apart from his violence there was very much to be admired in his character; he was in all respects 'a man.' I do not think he was the kind of man to fire the shots which entered the murdered man's eyes. . . . When he was found guilty, I looked reluctantly towards him, and he met me with a kind smile and a reassuring wave of the hand. The memory of his conviction and of the crime he committed must always be qualified and softened by that incident."

Leo Brown, or Guy Frederick Browne as he is known to infamy, was born in Catford in the year 1881, of working-class parents. In 1909 he was living with his widowed mother at Eynsham, Oxfordshire, carrying on a bicycle repairing business, trading as Brown Brothers. To his ostensible employment he added the secret practice of bicycle stealing. His method was to steal a bicycle, smuggle it home at night, pull it to pieces, file away any significant numbers, then reassemble parts of different machines, and sell the outcome at markets in Oxfordshire, Buckinghamshire, and Gloucestershire. Once, unfortunately for him, he omitted to obliterate the maker's number on an inner tube, with the result that he received twelve months' hard labour. It is said that he was out and about at all times of the night, always carrying a loaded revolver, and his declaration at the trial that he had never fired a pistol cannot be credited. In 1910 he was convicted at Abingdon Police Court for carrying firearms; on the 10th November, 1911, he was sentenced at the Oxford City Police Court to several months' hard labour for larceny; on the 12th April, 1912, at the Bucks Quarter Sessions to a year's hard labour for burglary; in April, 1913, he was arrested for receiving a stolen bicycle, on the 3rd May, in the same year, at

the Oxford City Quarter Sessions receiving twelve months' hard labour for the offence.

From a statement made by Mrs. Browne,[3] we gather that she first met with Browne at Eynsham in 1910, and was married to him on the 4th September, 1915, at Clapham, where she resided with him. After many years of married life her verdict was: "With all his faults, my husband has been decent to me."

After holding various situations with motor engineering firms, toward the end of 1916 he joined up under Lord Derby's scheme, and was with the Royal Engineers at Longmoor Camp.[4] He did not serve overseas, and was demobilised after the Armistice. His discharge runs thus:

> Sapper Frederick Guy Browne, R.E.
> Attested at Wandsworth, 17th May, 1916.
> Mobilised, 5th March, 1917.
> Posted to R.E., 9th March, 1917.
> Discharged on conviction by Civil Power, Hants, 5th November, 1918.
> Character, indifferent.

He had got into trouble at Petersfield, receiving a sentence of ten months. After this he worked in a garage at Clapham until late in 1921.

He then went to live at Eastwood, near Southend, where he "worked" at stealing and altering motor cars and illegally drawing insurance upon the same. On Christmas Eve, 1923, he, with others, was arrested on account of these fraudulent claims, and on the 20th February following was sentenced at the Central Criminal Court to four years' penal servitude. It was during his stay at Eastwood that he became familiar with the countryside that was afterward to be the scene of his fatal crime. As he said in a statement made after his last arrest:[5] "I know Romford, Brentwood, Shenfield, Billericay, Wickford, and Rayleigh, because for some time I lived in a bungalow in Eastwood, which is between Southend and Rayleigh, and when I lived there five years ago I used to come to London to work, when I was at ——'s garage, High Street, Clapham."

He began to work out his sentence at Parkhurst Convict Prison, where he soon made a name by the violence of his conduct, assaulting warders, breaking up his cell, and being generally

[3] 21st January, 1928.

[4] In the Railway Operating Department.

[5] At Tooting Police Station, 21st January, 1928.

riotous. He and his neighbour in the adjoining cell having dug out some of the bricks in the wall between them, were able to enliven their loneliness with edifying conversations. Refusing to do any "hard labour," for fifty-seven days he was on bread and water diet. Eventually he was transferred to Dartmoor Convict Prison to be tamed. It is stated that it was there that he first met Kennedy. He was released on 30th March, 1927. He told his wife and others that he had served every day of his term, because he did not want to have to report to the police after he came out. He was a stickler for freedom!

He now set out on the wild career of burglary and car-stealing which landed him on the gallows. Starting business at a garage at Clapham, he did legitimate work with lock-up garages and car repairs, but, unfortunately, did not confine himself to this.

The simplest way to present his career of crime is to tabulate his misdoings, his convictions, and some of the performances in which he was undoubtedly mixed up:

Sentence.	At	Date.	Offence.	Released.	Alias.
1 and 2 months' hard labour, consecutive.	Oxford City Police Court.	10/11/11.	Stealing bicycle.	26/1/12.	Leo Brown, though this was probably his rightful name.
12 months' hard labour.	Bucks Sessions.	12/4/12.	Burglary.	11/2/13.	,,
12 months' hard labour.	Oxford Sessions.	3/5/13.	Stealing bicycle.	4/3/14.	,,
10, 10, and 10 months' hard labour, concurrent.	Hants Assizes.	5/11/18.	Stealing motor bicycle.	17/11/19.	Frederick Guy Browne,
4 years' penal servitude.	Central Criminal Court.	20/2/23.	Conspiracy to defraud and forgery.	30/4/27.	,,

Also, he was fined upon two occasions for discharging a pistol within fifty feet of the road, and for having it in his possession without a licence.

Date.	Offence.
1927.	
7th-8th October.	Burglary. Stealing safe, with jewellery, cash, &c., from Mrs. Martha Betts, Upper Tooting Road. Evidently the work of experts.

Browne and Kennedy.

Date.	Offence.
1927.	
30th-31st October.	Breaking into office and stealing cigarettes, &c., value £20, Tooting Junction Railway Station. Again, evidently the work of experts.
12th-13th November.	Breaking into garage and stealing Vauxhall motor car, index number Y.E. 8722, from Mrs. Hulton, at Tooting. This was the famous car recovered at Sheffield, for the theft of which Browne and Kennedy were arrested and charged. The number plates were found in Browne's possession! The owner went to Sheffield on 18th January, 1928, but was unable definitely to identify the car there shown her by the police.
25th November.	Stealing a Singer car, the property of a gentleman at Tooting. This Singer was found at Browne's garage in process of "transformation."
4th-5th December.	Eynsham Railway Station was broken into, and a number of parcels and a Smith-Premier typewriter carried off; also, an attempt was made to remove the safe. The thieves, Browne and another, were seen by a porter, whom they carried into the office, where they bound his hands and legs, then carrying him along the line to a shed. Both men were armed. The car used by the thieves was driven for several miles along the line between the metals, and the tyres corresponded with those of Browne's Angus-Sanderson.
	After Browne's arrest at his garage, the station-master recognised his typewriter among the property there, also a quantity of tobacco.
	Browne seems to have had a mania for preserving evidence against himself!
7th-8th December.	A Buick car was stolen at Seven Sisters Road, Harringay, and was found in Browne's garage in process of "transformation."
11th-12th December.	The office at Bordon Railway Station, Hants, was broken into, and a safe with £363 4s. 3d., some cigarettes, and 19 parcels containing property to the value of £500 taken. Part of the "swag" was found at Browne's garage.
1928.	
19th January.	A shop at Herne Hill was broken into, and some of the property stolen was found in Browne's garage.

To conclude this intentionally bald but surely not unconvincing narrative, here follows:—

Browne's Conviction Form.

Name: Frederick Guy Browne.
Alias: (Probably his real name) Leo Brown.
Born: London, 1881.
Height: without shoes, 5 ft. 7½ ins.
Complexion: Dark.
Hair: Dark brown, going thin on top.
Eyes: Grey.

Elsewhere he is described as " a tall, well-built, dark-complexioned man, with a heavy moustache." He was endowed with great physical strength, which he sometimes displayed by dispensing with a jack and raising a car by his own unaided muscular power.

In many ways he was unlike the typical ruffian of fiction and public imagination, being a non-smoker and a teetotaller, not a hail-fellow-well-met with all and sundry, not a man of many friends, but staunch to those whom he did like, passionately fond of his little daughter and faithful to his wife.

On 21st October, 1925, at the Taunton Assizes, a man named Frederick Counter was convicted of burglary and sentenced to three years' penal servitude, which he served at Dartmoor. He was a friend of Browne, who had made his acquaintance when he himself was sojourning in that gloomy moral-health resort. On the Wednesday before his arrest, Browne, in his Angus-Sanderson car, set out to meet his friend on his release, with the intention of driving him back to town. There was some misunderstanding as to dates, and Browne telegraphed from Yelverton to his wife to say that he had started a day too soon, and so would not be back until a day later than he expected. Counter was released at 7 a.m. on Friday, 20th January, going by train from Princetown to Yelverton, where he was surprised to see Browne clad as a chauffeur. He was on his way to pay a visit to some friends at Exeter, so he arranged to meet Browne again at Sidmouth Junction later on. They drove to London, arriving at about 7.30 in the evening, Browne dropping his friend near New Scotland Yard, where he had to report himself at the Convict Registration Office, himself proceeding to his garage, where, to his intense astonishment, the police awaited his arrival with open arms.

As we have seen, a Vauxhall car had been stolen at Tooting; at the same time a small nickel revolver had been taken, which figured prominently at the trial of Browne and Kennedy. It was on account of this car theft that the two were arrested and brought before the magistrate. The car had been bought by a man at Sheffield from Browne, who received for it £100 and the Angus-Sanderson car, of which so much is heard. The police in London had also received information that led them to suspect that he might be concerned in the Gutteridge murder.

Browne and Kennedy.

III.

Kennedy.

Patrick Michael William or William Henry Kennedy was born in 1891 or 1892 in Ayrshire, of Irish parents, his father being James Kennedy, a mining engineer. He went to Liverpool when quite young, being there apprenticed as a compositor. In 1903 he enlisted in the Loyal North Lancashire Regiment as "William Herbert," serving until 1911, when, as a lance-corporal, he was transferred to the Army Reserve with an "indifferent" character. During 1911-1913 he resumed his occupation as a compositor, and contrived to acquire a reputation for inebriety and immoral conduct. In May of 1911 he was sentenced to two months' hard labour for indecent exposure, and in October of the succeeding year to four months for theft. Twelve months later, at Carnarvon Assizes, he was given four months' hard labour for thieving as "Henry le Fevere."

Until the lurid end his criminal career was not one of high achievement. In May, 1913, he was fined 10s. at Liverpool City Police Court as "Henry Jones" for being "drunk and disorderly"; in June he got a month's hard labour at Stockport Borough Police Court as "William Kennedy" for indecent exposure; in August, at Wallasey Borough Police Court, one day for loitering! Then in October, with his full name, William Henry Kennedy, three years' penal servitude and three years' concurrent at Liverpool City Assizes for housebreaking and larceny.

On his release in April, 1916, he enlisted again, and his military achievements may be summarised thus:

KENNEDY'S MILITARY SERVICE.

Private, Hussars of the Line.	
1st Engagement:	
Called up, London, - - - - -	20/4/1916.
Posted to Hussars, - - - - -	22/4/1916.
Deserted, - - - - - - -	17/8/1916.
2nd Engagement:	
Fraudulently enlisted at Dublin as Patrick Marie Fitzpatrick into King's Liverpool Regiment, - - - - - -	25/8/1916.
Convicted by Civil Power at Oswestry[6] of theft. Six months. Then transferred to Portland to serve remainder of former sentence of penal servitude, - - -	22/5/1917.
Released from Portland, - - - -	11/9/1917.
Deserted, - - - - - - -	4/10/1917.

[6] For stealing a bicycle.

Introduction.

In April, 1916, Kennedy declared former service with the South African Imperial Forces, namely, the Kimberley Town Guard and Natal Carabineers, and in August he declared two and a half years' service with the South African Light Horse. There seems to be no doubt that he was serving in South Africa in 1902-3.

Still eager for military glory, in October, 1917, he rejoined the King's Liverpool Regiment at Bandon, County Cork, as "Michael Sullivan," being discharged with ignominy and his medals forfeited, whereupon he went again to Liverpool, taking up the double profession of crime and hawking fruit. His sordid performances may be summarised thus:

Date.	At	Offence.	Sentence.
1st June, 1920.	Liverpool City Police Court.	Four cases of indecent exposure.	3 months' hard labour.
5th January, 1921.	Liverpool City Sessions.	Housebreaking.	9 months' hard labour.
28th September, 1921.	Do.	Stealing bicycle.	12 months' hard labour.
15th August, 1922.	Liverpool City Police Court.	Stealing six pairs of trousers.	3 months' hard labour.
5th April, 1923.	Liverpool City Sessions.	Housebreaking.	12 months' hard labour.
14th February, 1924.	Liverpool City Police Court.	Stealing a bicycle.	1 month's hard labour.
17th April, 1924.	Do.	"Frequenting."	1 month's hard labour.
30th June, 1924.	Chester Quarter Sessions.	Stealing a bicycle; was armed with a loaded revolver.	3 years' penal servitude.

His cronies designated him "The Fairhaired Sniper" and "Two-gun Pat"! He was wont to boast of having been a Sinn Feiner and of having "picked off" two of the Black and Tans. So he can scarcely be said to have made his appearance at the Central Criminal Court "without a stain on his character," and was wise to avoid the ordeal of cross-examination.

In June or July, 1927, the date being his own statement and near enough to accuracy, he went to work with Browne in his garage, from which he took his departure in December, once again going to Liverpool. He returned to London on the 13th January of the following year, marrying on the 18th. Then on the 21st, being scared by the news of Browne's arrest, he thought it well to make himself scarce as far as London was concerned, evidently thinking he would be safer in Liverpool.

Shortly after half-past seven he and his wife set out in a taxi for Euston Railway Station, saying that they were bound for Ireland. His London landlady describes him as: "Complexion florid, hair light to sandy, bald in front, clean shaven, full face," and as speaking with an "Irish accent." Leaving for Liverpool by the night train, they lodged there at Copperas Hill, Kennedy being arrested on 25th January. The remainder of his biography is given in the evidence produced at the trial.

IV.

The Statements of Browne and Kennedy.

To enable the reader to follow the story and to appreciate many of the arguments raised before the magistrate and at the trial, it is convenient to give here in full the important statements made by Browne and Kennedy, the last being practically a confession and seriously implicating Browne.

A.

FREDERICK GUY BROWNE, 33a Sisters Avenue, Clapham, Motor Engineer.

Tooting Police Station, 21st January, 1928.

I think I was born in 1881, and am a motor engineer. I came to London after being in the country in March last.

I have been told by Chief Inspector Berrett that he is making inquiries respecting the murder of P.C. Gutteridge at Stapleford Abbotts, Essex, on the night of 26th September, 1927. He has cautioned me that anything I say will be taken down in writing and may be given in evidence, and I have been asked to account for my movements on the night of 26th September, 1927.

I came to London from the country about end of March or beginning of April. I visited a brother-in-law of mine at Buckhurst Hill, and I later visited my wife and looked for a garage or some premises suitable for one, and eventually found a place at 7a Northcote Road, Clapham Junction. This would be, I think, in June, and documents will show the exact date. I took the premises from Mr. David Mistlin, the proprietor of the cinema next door.

Introduction.

When I took the place it was simply a lean-to shed in the yard, and I set about to improve the premises and make it into a garage, and I let space for four cars to other people for 10s. 6d. and three to people for 7s. 6d. per week. At this time I was alone in the business, but after the garage was completed I employed another man to keep my books. I do not wish to give his name, but I got him from the Salvation Army to give him a start. He left me and went to Liverpool just before Christmas. Since then I have had no one permanently employed by me, but other men have done odd jobs for me. I have also been friendly with the operator at the cinema. He is known as Fred, and he on one occasion has driven my car, as I thought it would be useful later for him to help me with hire work, as I then had five cars.

During the time I had the man working for me he slept in the garage, but before he came to work for me, which was during the time I was getting the garage straight, I slept there. I cannot say the exact date when I took the man on, but you can tell that by his handwriting in the books, and from that date I slept at Sisters Avenue.

The books have not been kept since the man left, but I have kept my business on bits of paper and by my own method.

Since the man left me just before Christmas I have slept with my wife as above.

The only time any one else slept at the garage was when a man named Dyson slept at the garage—he was working for me.

I have been away from the garage and from my home for about three or four occasions, twice to Sheffield, once to Dartmoor; and on another occasion I went to a fair in the country with a man named Dyson and stayed the night. They are the only times I have stayed away from the garage or my home at night.

I have never slept at my brother-in-law's house at Buckhurst Hill since I had the garage at Northcote Road.

I know Romford, Brentwood, Shenfield, Billericay, Wickford, and Rayleigh, because for some time I lived in a bungalow at Eastwood, which is between Southend and Rayleigh, and when I lived there five years ago I used to come to London to work when I was working at ——'s garage, High Street, Clapham.

I have visited Eastwood on two occasions since April last, in the daytime, and went to see a man named J. Wilson, jun., a

motor engineer. I cannot say if I was there during the month of September, but I certainly have not been there on any night.

I have heard of Stapleford Abbotts, but don't remember ever having been through it. I heard most about it when the murder took place. I think the first time I heard about the murder was when a policeman came to my garage and passed some remark. I do not take newspapers in, because I do not read them. I have not the patience. My wife has a picture paper each day, and I think she passed some remark about them.

I have been asked by Chief Inspector Berrett to account for the Webley revolver found in my possession which was loaded in six chambers. I wish to say I have never fired the revolver since I first had it. I got it some time in April last. I gave £3 for it down at Tilbury Docks from a sailor man whose name I do not know, neither can I describe him. He was an ordinary seaman. It was unloaded when I bought it. The ammunition with which it is loaded I obtained from another man, together with a number of other cartridges shown to me, which were found in my hip pocket. I knew the man I got the ammunition from in the Army. I don't wish to say who the man is. The ammunition is very old in type, and was made previous to the war. They are in the same condition now as when I obtained them.

Shortly after I got the revolver it began to go rusty, but I kept it well oiled. I have never used it. I loaded it so that it would frighten any one in case they interfered with me, and the reason I carried the weapon was because at the beginning of the war, and when I was working for Pytchley Auto Car Co., Great Portland Street, W., delivering cars by road in different parts of the country, on two occasions, once when I was going through Gloucester to S. Wales and a man at dusk signalled to me when I was driving the car to stop. As I slowed down in accordance with his signal, and I was engaged on the near side speaking to him, two other men jumped on the offside running board and demanded money. I was unprepared, and gave them what little money I had.

Some six weeks after that occasion, when going to Bournemouth with another car, the same kind of thing happened to me with a man calling on me to stop, but I declined. After this I made up my mind to be armed when taking cars to the country, and I purchased a revolver with a long barrel, but I had not ammunition.

I later joined the Army, but have never been threatened since. The reason I had it on me to-day was because I had been on a country run to Devon.

I have been shown two pairs of plier tweezers, which I use in my garage.

I have also been shown a quantity of lint bandages and tweezers, and a tube of freezing fluid, which I keep in the garage for cases of injury to my hands. I have also seen a bottle of high volatile spirit. These things are kept in the garage for cases of emergency and accidents, and I bought them from various chemists, some I bought at Sheffield at a chemist's near the Infirmary—opposite, in fact.

I have also seen and been shown an inspection lamp, with battery attached. It bears the words " Sancylight " on the barrel. I bought it at a street market. I have added to the torch to reduce the light to a point.

The black gloves shown to me were issued to me in the Army so far as I remember for driving, but now that I try them on I think they are too big for me, and don't remember where I got them or much about them. I have been told they were found in the top right-hand drawer in the chest of drawers in the sitting-room at my house.

I have never been out in Essex at night driving motor cars or taking part in stealing motor cars.

I have had no connection with the murder of P.C. Gutteridge, and personally I am not interested in it, because it does not interest me.

This has been read to me, and it is true to the best of my belief. (Signed) F. G. Browne.

B.

Frederick Guy Browne.

Tooting Station, 22nd January, 1927.

I have again been cautioned by Chief Inspector Berrett that anything I say will be taken down and may be given in evidence.

I have been shown a metal case fastening with a catch in the centre. I have only got to say that this is a box in which I keep my files. I got it with a lot of other stuff. I don't wish to say where. I know the tin was kept in my garage.

The revolver shown to me, a Smith & Wesson, which I am told was loaded and was found on top of the cupboard in my room, I also recognise.

I have also been shown a Webley revolver, which I know was a second one found in the Angus-Sanderson car fully loaded.

I have also seen twenty-four cartridges in a handkerchief found in my rooms, eleven cartridges found in my house .45 calibre, and two packets of .45 ammunition, and sixteen cartridges found on the dresser of the inner office at my garage.

I admit they were where you said they were found, and I admit having them, but I decline to give any explanation of where I got them.

You won't find any more firearms in or around my premises either at my house or garage.

There is one more revolver, but I won't tell you where it was, as I might have sent you on a fool's errand. It was hidden somewhere, but whether some one has found it or not I cannot say, as I have not been to look, as I heard one was found on the Embankment.

All the ammunition you have got of .45 calibre I got from the soldier I mentioned in my first statement.

The revolver I hid looked of the Webley type, but not service pattern, and was unloaded, and I hid it about last April.

I wish to say that I took my flat on 24th September, 1927, which I am being told was the date—a Saturday—I know I went in on a Saturday—I am confident I did not miss sleeping there for any night for some weeks.

I have been shown a receipt for my rent, which shows that it was the 24th September, 1927, that I went to 33a Sisters Avenue.

This statement was read over to me, and is true.

(Signed) F. G. Browne.

C.

William Henry Kennedy, no fixed abode, Compositor, age 37.

New Scotland Yard, 26th January, 1928.

Who saith:

About 11.30 p.m., 25th January, 1928, I was arrested at Liverpool on a charge of being concerned in stealing a motor

car. I have to-night, 26th January, 1928, at 8 p.m., been interviewed by Chief Inspector Berrett, and told he is making inquiries respecting the murder of P.C. Gutteridge at Stapleford Abbotts, Essex, on the morning of 27th September, 1927, and asked if I can give any information respecting it.

I wish voluntarily to tell you what I know about the matter, having been cautioned that what I do say will be taken down in writing and may be given in evidence.

(Signed) W. KENNEDY.

At the end of either June or July, whilst I was at work on a farm at Cheshire, after my release from prison in November, 1926, I received a letter from a man known as Fred. Browne, which letter I have destroyed or handed to the representative of the Central Association in Liverpool.[7]

In the letter he told me he was just starting a garage in Battersea—7a Northcote Road—and invited me to come down and act as manager. He said he would probably have a number of boys under him later, and that he would want me to look after them whilst he was away on repair jobs. He said he could not offer me much money at first, but it would cost me nothing for board and lodgings, as I could live at his garage.

He sent me my fare, exact amount, and I borrowed 10s. from the representative, to whom I think I gave the letter. I came to London and slept on the premises at 7a Northcote Road, at the back of the place used as an office.

My duties consisted of attending to correspondence, keeping the books, making and dealing with accounts. The man Fred. Browne was also sleeping on the premises at the time.

After this had been going on, I think, till about the end of August, Browne went to live with his wife at 2 Huguenot Place, East Hill. The wife had been in service.

He used to come to the works each day at various times from 8 to 11 a.m. and stayed till all hours, usually about 9 p.m., but sometimes later than that.

We had a fair amount of work as repairs, and we were assisted in this by a man named Dyson, who was employed by Browne as a general handyman, and paid a wage of 25s. per week. We all worked together, and made lock-up garages to be let to other people.

[7] The Discharged Prisoners' Association.

I remained sleeping at the garage till December, and used to go out on occasions on motor rides with Browne, on ordinary and various business journeys, and once or twice we called at his sister's place at Buckhurst Hill.

I well remember the day of 26th September. He suggested that I should accompany him to Billericay, to assist him in stealing a Raleigh car at the end of the High Street, away from the station. We went to a place which faces a large, empty house standing in its own grounds. Browne entered the grounds of the house where the Raleigh car was supposed to be. We went to Billericay by rail from Liverpool Street, which I think was shortly after 7 p.m., because we left the garage at 6.30 p.m.

I accompanied Browne into the grounds. Browne opened the door of the garage, I think with a key, and examined the Raleigh car, and we then left the garage and grounds, and hid in the grounds of the empty house and waited until the people owning the Raleigh car went to bed.

Browne told me to wait in the grounds of the empty house, and Browne went to the garage where the car was stored. A dog came out, and, starting to bark, it made Brown leave and join me, and he said, " It's no good here. We can't get back by train, so we'll try somewhere else." The time was then, I should think, about 11 p.m. We walked through the village again and came to a spot, which I now know is the doctor's house, on a sharp bend at the opposite end to where the Raleigh car was, and on the main London Road.

We saw the garage at the end of the doctor's house, and we went into the field opposite, and sat on some old palings or gates, and waited till the lights went out in the doctor's house. It was getting late, and must have been after midnight

After the lights went out Browne and I went to the garage, which is a wood structure, and he forced the doors with, I think, a small tyre lever or tool of some kind, which he took with him.

The door was opened easily.

He first examined the petrol tank and make of car, and told me there was plenty of petrol in the tank. He told me it was a Morris-Cowley. It ran down on its own weight to the road, and we pushed it along about a hundred yards in the opposite direction, or at right angles to the main road. Browne said, " We will go by the by-ways and escape the main road." We

then went for a long run round country lanes at great pace at different times. We got to several crossroads and corners, where it was necessary for us to examine the signposts, but eventually we got on to a kind of main road on the way to Ongar. When we got some distance up on this road we saw some one who stood on the bank and flashed his lamp as a signal to stop. We drove on, and I then heard a police whistle, and told Browne to stop. He did so quite willingly, and when the person came up we saw it was a policeman. Browne was driving, and I was sitting on his left in the front. The policeman came up close to the car and stood near Browne and asked him where he was going and where he came from. Browne told him we came from Lea Bridge Road garage, and had been out to do some repairs. The policeman then asked him if he had a card. Browne said, "No." He then asked Browne, "Have you a driving licence." Browne again said, "No." The policeman then again asked him where he came from, and Browne stammered in his answer, and the policeman then said, "Is the car yours?" I then said, "No; the car is mine." The policeman flashed his light in both our faces, and was at this time standing close to the running board on the off side. He then asked me if I knew the number of the car, and Browne said, "You'll see it on the front of car." The policeman said, "I know the number, but do you?" I said, "Yes, I can give you the number," and said "T.W.6120." He said, "Very well, I'll take particulars," put his torch back in his pocket, and pulled out his notebook, and was in the act of writing when I heard a report, quickly followed by another one. I saw the policeman stagger back and fall over by the bank at the hedge. I said to Browne, "What have you done?" and then saw he had a large Webley revolver in his hand. He said, "Get out quick." I immediately got out and went round to the policeman, who was lying on his back, and Browne came over and said, "I'll finish the bugger," and I said, "For God's sake don't shoot any more, the man's dying," as he was groaning.

The policeman's eyes were open, and Browne, addressing him, said, "What are you looking at me like that for?" and, stooping down, shot him at close range through both eyes. There were only four shots fired. Browne then said, "Let's get back into the car." We had driven close into the bank, and backed out a little, and drove on in the direction of Ongar. He gave me the revolver, and told me to load it while he drove on. I loaded it,

and in my excitement I dropped an empty shell in the car. The other three I threw away into the roads. We drove at great pace through many villages, the names of which I do not know, but I know we went through Buckhurst Hill, and then Bow and the Elephant and Castle, and while on this journey Browne said, "Have you loaded that gun again? If you have, give it me back." I gave it to him, and he kept in on the seat by his right-hand side. He wanted to take the car to the garage, but I persuaded him to have nothing to do with the garage. We drove to Brixton, and went up a road I don't know the name of, and drove into a cul-de-sac at about 5.30 a.m. We left the car and came out into the main road, and came by tramcar back to the garage, bringing with us two cases out of the car containing doctor's instruments. These, or the majority of them, were smashed up, and the cases were cut up into small pieces, which Browne later took out in his car and distributed about various roads in the country, so as to destroy all evidence, and I did not know that he retained any of the doctor's property. I forgot to mention that on our journey, after shooting the policeman, Browne turned into a tree owing to fog at a gate. The fog was very dense at that time. I think he damaged the near side front wing. I was very excited at the time. We returned to the garage about 6 a.m., and commenced our work.

Dyson arrived at his usual time about 8 a.m., and business carried on as usual. I suggested to Browne that we should go right away from London, as I knew inquiries were sure to be made. Browne said there was no danger, and induced me to stop, and said if I made up my mind to leave him he would blow my brains out. He had the Webley revolver in his hand when he said this, and, as I knew it was loaded, I thought he would. I then later went to a newspaper shop and purchased the various editions of the papers, and in one I found that Scotland Yard was supposed to have found finger prints, and again wanted to leave, and he said, "No, you don't; you'll stop here and face it out with me. If any one comes up here there will be a shooting match."

I remained in the garage till December, and we saw newspapers on different dates relating to the crime, and saw the account of the renewed inquest in November, and the reward in the *News of the World*, and Browne said, "They're still harping on that thing yet."

Introduction.

In December I told Browne I was going away, and he made no objection then, and drove me to Euston in the car about, I think, 17th December, 1927.

I then went to West Kirby, Liverpool, to an address I don't want to mention, and remained until 13th January last, when I returned to London with the woman I have married, and I have lived at 2 Huguenot Place till last Saturday, 21st January, 1928, when I left and went again back to Liverpool, where I was arrested.

Since I came to London on 13th January I have called at the garage on two occasions, and he said, "Hullo, you've come back." On the first occasion no mention was made of the crime.

On 17th January, 1928—a Tuesday—he wanted me to go to Devonshire with him in a car, but my wife persuaded me not to, and told me that, whatever he was going for, I was better out of it. I think Browne went, and I left.

I went to the garage again at 2 p.m., Saturday, 21st January, 1928, and when I got to the entrance I found the gate locked, and saw two men, who I took to be detectives, and suspected something was wrong. I went to my wife and told her to pack, as we were going away, giving her no reason. I went to Clapham Common and sent a bogus telegram to myself saying some one was ill. This was an excuse I made to explain our leaving, and also I hoped to get some of the rent back I had paid, and the landlady gave me back three weeks' rent. I then went to Euston, and left for Liverpool by the midnight train, and was arrested, as previously stated.

I have seen Browne in possession of two Webley revolvers, which were always kept loaded, and he had plenty of ammunition. He also told me he had a Smith & Wesson, but I never saw it. I believe he kept it at home. He also had a small nickel .22 revolver, which was also kept at home.

I have been worried ever since the murder of the constable, and at times I became desperate, expecting I should be arrested, and not knowing what to do.

I have made this statement quite voluntarily, after being cautioned, and am prepared to give it in a Court of law if necessary.

It has been read over to me, and all I have stated is the whole truth of what took place on the night of 26th-27th September, 1927. (Signed) W. KENNEDY.

D.

WILLIAM HENRY KENNEDY.

New Scotland Yard, 26th January, 1928.

Who saith:

I have been shown two "Webley" revolvers. The one, No. 351931, is, I think, the one that Browne had on the night that the policeman was shot; and the one, No. 299431, is the one he had when he threatened me if I went away.

On the night of the murder I was dressed in a grey suit, thick brown overcoat, and Trilby hat, a brown one, and he was dressed, to the best of my recollection, in a light rain coat, dark fawn in colour, and a Trilby hat.

The letter shown me by Chief Inspector Berrett is the one I received from Browne. It is headed "Monday evening, London," and referred to in my statement.

The pistol found in my possession and the ammunition was given me by Browne some short time before I left London.

This has been read over to me and is true.

(Signed) W. KENNEDY.

V.

After their Arrest.

Following their arrest, Browne and Kennedy were charged at the South-Western Police Court with the stealing of the Vauxhall car, but on 13th February this charge was dropped, that of murdering Constable Gutteridge being substituted, or added, to be meticulously correct.

Sir Travers Humphreys conducted the case for the Crown. The evidence produced was practically the same as that later adduced at the trial, but there are some points of interest which must be noted. First, the argument for and against the admission as evidence of the statements made by Browne, when he had been asked by Inspector Berrett if he could satisfactorily account for his time on the night of the murder. On behalf of Browne, it was urged that he had been improperly questioned, and that

inducements were held out to persuade him to speak.[8] The magistrate ruled that the statements had been properly obtained and were clearly admissible.

Next came the question of the admission of Kennedy's long statement, which might well be dubbed a confession, and which was of vital importance to Browne. If that statement could be kept out of Court and out of the newspapers, the case for the prosecution against Kennedy, and more especially against Browne, would be seriously weakened. Two lines of objection to its admission were argued. The magistrate, as afterwards the judge at the trial, admitted that Kennedy's statement could not be accepted as evidence against Browne. The more general aspects of this point are referred to later on in this Introduction. On behalf of Kennedy it was urged that the statement was not voluntary, and that it was forced by the police from Kennedy when he " was in such a state of mental helplessness that he did not know what he was doing or signing." It had been taken from him at New Scotland Yard the day after his arrest at Liverpool, whence he had come in the afternoon, arriving in London about 6 o'clock p.m. It was alleged that he had not been allowed to obtain adequate rest and had not been given sufficient food. Further, the " statement had been pumped out by four hours of interrogation, of promises, hopes, and threats." For the Crown it was urged that the statement was voluntary, and had been secured in a perfectly proper and legal manner. The magistrate decided, and no one can question the propriety of his decision, that the statement should be admitted. The serious allegations made against the police in this connection were so flimsily supported that they were dropped and were not renewed at the trial.

The rest of the magisterial proceedings were occupied with evidence which on all vital points is the same as that produced at the trial, which is there given in full.

On 3rd April both men were committed.

At the inquest on Gutteridge, opened at Romford on 30th September, 1927, concluding on 25th November, the verdict had been returned of murder by some person or persons unknown.

[8] The arguments and evidence on these and other points are given in Appendix A.

VI.

The Trial.

The trial opened on Monday, 23rd April, 1928, at the Central Criminal Court, before Mr. Justice Avory and a jury, a True Bill having been returned by the Grand Jury on the 17th against both the accused. The case presents one point of legal interest, the applications made and refused for separate trials. To make a précis here of the evidence, which was materially the same against both the accused, would be but a dreary reiteration of what has already been stated in the preceding pages, and would gravely detract from the interest of the gripping story told by the witnesses at the Old Bailey. Two questions only were raised at the appeal,[1] that the refusal of a separate trial had resulted in a miscarriage of justice, and that the judge's summing up as a whole had led to a verdict that should not be allowed to stand; in short, that there had been "misdirection." The appeal in both cases was emphatically rejected.

But there is one matter brought forward in evidence which calls for consideration. Bullets had been found in and near the body of the murdered man and an empty cartridge case in the stolen car. The problem set the C.I.D. was to find the revolver from which the cartridge was fired. Sir Wyndham Childs, then Assistant Commissioner of the Metropolitan Police, at once fixed his attention upon the unusual character of the cartridge, which was one that had been withdrawn from the Army in 1914. Marks upon the body proved that one of the bullets that had been fired into the dead man's eyes had been propelled by black powder, an explosive that had not been employed since 1894. All this, and more, was fully dealt with at the trial in the evidence of experts.

It was necessary, therefore, to find a man who not only was in possession, or had been in possession, of similar ammunition, but who owned the pistol that had fired the cartridge. Revolver after revolver that fell into the hands of the police was tested, but the one looked for did not appear. Then came the arrest of Browne; suspicious ammunition was found on him and at the garage; also, a Webley revolver, which was proved to be the one that had fired the cartridge.

[1] See Appendix B.

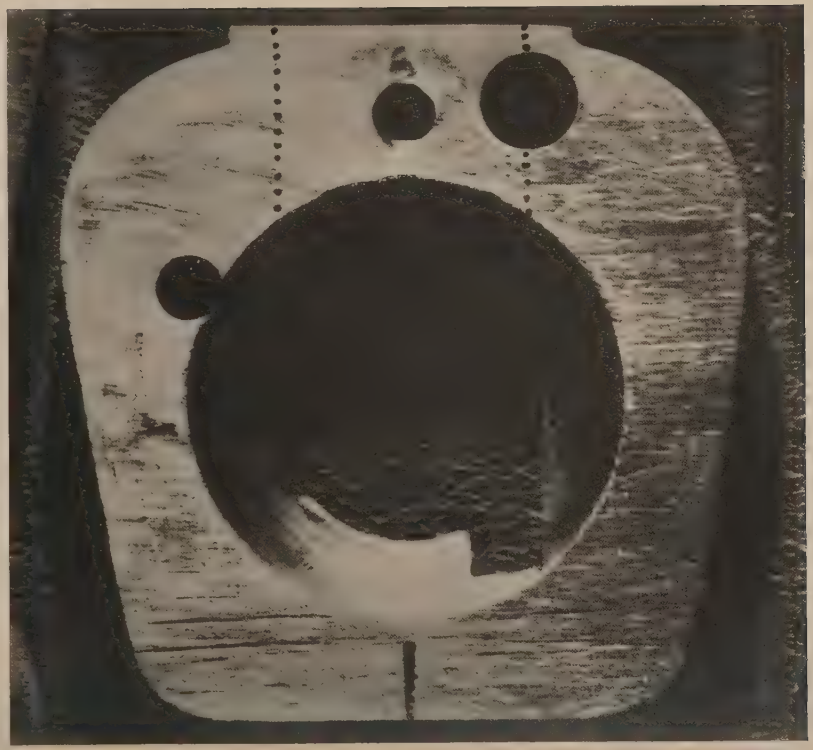

Fig. 1. Photograph of the breech shield of Browne's revolver, magnified. The portion marked off by dots is that reproduced in figure.

Introduction.

The firearm from which a particular bullet has been fired can be identified beyond question, and it is curious that this aid to the work of the detective was not perfected sooner. The fact at the back of these identifications is that no two natural or man-made objects are ever precisely the same. To the unaided eye they may often appear to be so, but with the assistance of the microscope they are shown to be different. To the naked eye the edges of all razor blades look to be the same; actually, no two are or can be precisely the same, and the microscope shows them to be saw-edged, that is, serrated. In no two rifle barrels are the riflings ever precisely the same, because they have been cut by tools the edges of which change slightly with every use made of them. The markings on the breach shield of, say, a revolver, against which the cartridge rests and against which it is forced with tremendous power when fired, cannot be precisely the same in any two weapons, because they are made by hand with the use of a file. The human hand can never twice do exactly the same work.

So it comes to this: a bullet or shell invariably bears marks, which may be called equivalent to "finger prints," distinctive of and peculiar to the barrel of the weapon from which it has been fired. Why not call it a "gun print"? The scratches round the firing pinhole of the breach shield of a revolver are imprinted on the base of every cartridge fired from it; a cartridge bearing that imprint can have been fired from that "gun" only.

Therefore, when it is suspected that a certain bullet was fired from a certain "gun," other bullets are fired from it, and the marks upon them made by the rifling and the marks upon the base of the cartridges made by the breach are microscopically examined and compared with those upon the bullet and the cartridge case to be identified. Enlarged photographs of both are made so that the identification can be seen by the naked eye, and these photographs are "exhibited" to all whom they may concern. Here, therefore, as in many other directions, the camera of the photographer is of inestimable aid to the scientific detective.

Of course, this is no more than an outline of an intricate and difficult, but always precise, process.

In a Court of law the procedure, roughly, is this: in the case of a bullet the expert witness will describe to the jury the

way in which the barrel of a firearm is rifled, explaining why it is impossible that the rifling of any two barrels can be exactly alike in the minute details, and that, therefore, an identifiable "finger print" is impressed upon every bullet fired. Similarly he will explain the "print" made by the breach shield upon the base of the cartridge case.

A trouble that has often to be faced is that it is not always easy to find the gun from which the bullet was fired; had Browne got rid of his pistol, he would probably still be alive and dangerous to society. Further, often the bullet has been deformed by contact with some hard substance, such as a bone, or badly handled by the surgeon. Here the cartridge will save the situation.

Find the bullet, or the cartridge case, and the gun that fired it can be identified. But—first catch your gun!

In this Browne-Kennedy case, the problems to be solved by the police and the experts, and then to be made clear to the Court and the jury, were:

I. Who fired the bullets that killed Gutteridge? From what make and calibre of pistol were they fired?

II. Where was that pistol and to whom did it belong on the night of the murder?

III. When the gun was found it was in the possession of Browne. The bullets had been so badly deformed that identification was not absolutely immaculate, as it must be in a case of life and death.

IV. But a cartridge case had also been found, and it was easy to prove beyond question that it had been fired from Browne's weapon, and that it could not have been fired from any other.

After having read the above, it may be helpful to peruse the evidence given by the various experts on p. 105 ff. Also, the meaning of the illustrations opposite pp. 23, 25, and 27 will now be clear, these being "exhibits" submitted to the Court and the jury.

Fig. I. shows the breech shield of Browne's revolver.

Fig. II. is a photograph of the base of the cartridge found in the car in which the murderers drove from Billericay to London on the night, or rather the morning, of the murder.

Fig. III. On the right hand is shown a portion of the breech shield of Browne's revolver and on the left a portion of the base of the cartridge. It will be seen how exactly the marks on the right side of the cartridge case corresponds with those on the left hand of the shield. The identification is unmistakable.

It may be noted here that not one finger print of either Browne or Kennedy was found upon the car, doubtless owing to both wearing gloves. Browne would naturally not have driven without them.

Fig. 2. Photograph of the base of the cartridge, magnified.

Three of the four bullets.

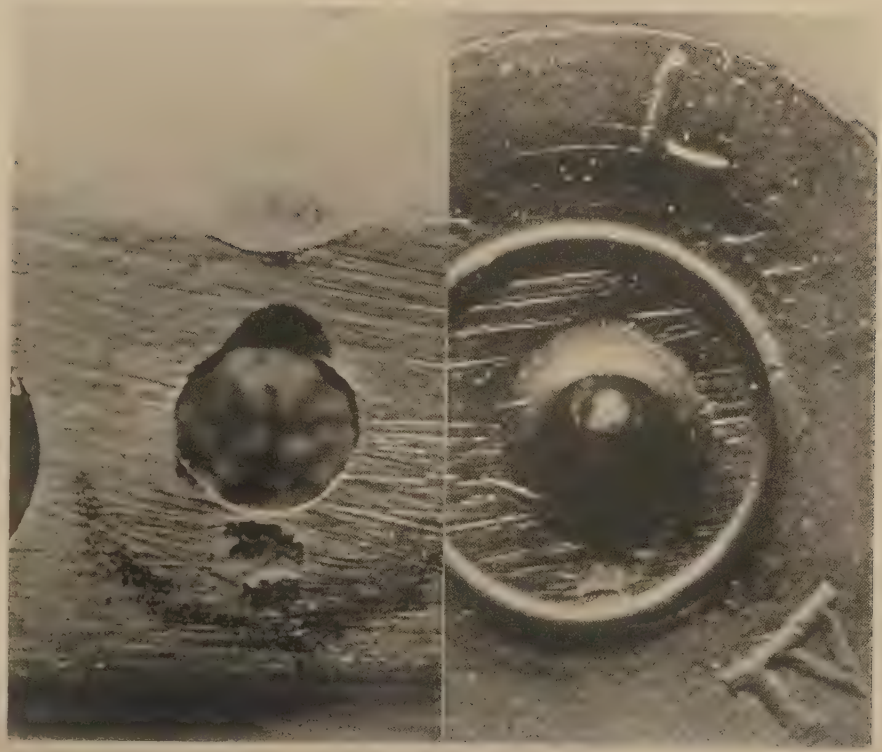

Fig. 3. On the left hand photograph is a portion of the breech shield of Browne's revolver (see Fig. 1). On the right a portion of the base of the cartridge, both magnified.

VII.

The Conclusion.

On 31st May, at 9 a.m., Browne was executed at Pentonville Prison and Kennedy at Wandsworth.

Highly coloured melodrama flooded the press while the murderers were awaiting execution: letters, confessions, poems, memoirs, and much descriptive matter, in which fragments of truth were swamped by masses of fiction. These productions have little historical value, and therefore do not concern us.[1]

VIII.

Summing Up.

To the student of crime this case presents little of interest; it was a murder committed by two outlaws when interfered with by authority. The criminals were no more than rebels against the hampering restraints of the law; in short, as I have said, they were "outlaws"—brigands and gunmen. What the character of each was has been shown already.

But there are several features in the trial, indeed in the whole case, which raise the question: could not and should not our English system of criminal legal procedure be bettered? Are not what amount to a triple trial in capital cases superfluous, dilatory, and clumsy? No one would suggest abolishing the application to a magistrate by the police, asking that the accused be committed for trial. But is anything gained for justice by the previous and often prolonged proceedings in the Coroner's Court? Of course, as the law now stands, if a Coroner hears that some person has been charged with, say, murder, unless there is any reason to the contrary, he must adjourn the inquest until after the criminal proceedings are concluded. But too often this automatic closure is too late. Also, is it not an impropriety that the Coroner should be free to accept, even to ask for, as he often does, evidence which could not be presented in a Criminal Court?[2]

[1] For Kennedy's last letter to his wife, see Appendix C.

[2] In Scotland the pre-trial procedure is different and, in the opinion of some, much more satisfactory.

But there is a far more important matter. Should not what is called "trial by newspaper" be made a criminal offence, and the publication forbidden of the evidence brought forward before the magistrate and the Coroner? In the interests of public morality the publication of evidence in divorce cases is not permitted. Is it not equally important that persons accused of criminal offences should be protected?

The Browne and Kennedy case is one only of many that could be cited in regard to this point. Again and again during the course of this trial the judge and counsel urged upon the jury that they must put out of mind and refrain from being in any way influenced by anything they might have heard or read concerning the murder and the accused, that they must arrive at their verdict solely upon the evidence put before them by the prosecution and the defence. Was that not making a demand impossible to meet? Asking men and women to be superhuman? Was it possible for the presumably innocent Browne to be fairly tried by jurymen and jurywomen who must almost certainly—some, if not all—have read and discussed the statement, tantamount to a confession, made by Kennedy to the police, which implicated Browne? Even if that possibility existed, this statement was produced and read in Court on behalf of the prosecution! Was it not a farce for the judge to tell the jury that they must eliminate that statement from their minds because it was not evidence against Browne—a farce such as may one day result in a tragic miscarriage of justice? Can the judge himself be unaffected by such evidence? If that statement had not been published, and if Browne had been tried separately and first, there would have been better compliance with the demands and dictates of justice. It is nothing to the point that Browne was undoubtedly guilty.

Then this: until an accused is proved to be guilty the law assumes that he is innocent. Yet, often after commitment by the magistrate, he is kept in durance for a considerable period before he is brought to trial. Browne and Kennedy were thus under lock and key for some three months! Theirs is not an exceptional case. Is not this procedure a stain upon what, as a whole, is the finest judicial system in this world? Is it impossible to revise our criminal procedure so that commitment is immediately followed by trial? Is not the assize system, convenient still in many ways, unsatisfactory in regard to capital cases?

Introduction.

Torture is illegal. Yet we often add to capital punishment mental torture of a terrible character. When the accused is condemned, should he not be executed immediately after the appeal, if there is one?

These questions raise a misgiving as to whether those arraigned on capital charges do always receive the consideration demanded by justice, based upon humanity, to which they have a right.

Leading Dates in the Browne and Kennedy Trial.

1927.	
June.	Browne takes the Garage at Clapham.
26th-27th September.	Murder of Police-Constable Gutteridge.
„ „	Dr. Lovell's Car stolen at Billericay.
27th September.	Dr. Lovell's Car found at Brixton.
1928.	
20th January.	Browne arrested.
25th „	Kennedy arrested.
23rd April.	Trial opens at the Central Criminal Court.
27th „	"Guilty."
22nd May.	Appeals dismissed.
31st „	Browne and Kennedy executed.

THE TRIAL

WITHIN THE

CENTRAL CRIMINAL COURT,

Old Bailey, London,

MONDAY, 23RD APRIL, 1928.

Judge—

MR. JUSTICE AVORY.

Counsel for the Crown—

The SOLICITOR-GENERAL (Sir Boyd Merriman, K.C., M.P.),

Mr. H. D. ROOME and

Mr. G. B. M'CLURE.

Counsel for the Prisoner Frederick Guy Browne—

Mr. E. F. LEVER and

Mr. WALTER B. FRAMPTON.

Counsel for the Prisoner William Henry Kennedy—

Mr. FRANK J. POWELL and

Mr. CHARLES ABBOTT.

First Day—Monday, 23rd April, 1928.

The Clerk of Court—Frederick Guy Browne and William Henry Kennedy, you are charged on indictment[1] that on the 27th day of September in last year you murdered George William Gutteridge. Frederick Guy Browne, are you guilty or not guilty?

Browne—I am not guilty.

The Clerk of Court—William Henry Kennedy, are you guilty or not guilty?

Kennedy—Not guilty.

Application by the Prisoner Browne.

Mr. Lever—My lord, on behalf of Browne, I have an application to make, and I think possibly the present is the correct moment for making it. It is a most important application from the point of view of the man I defend. It is that your lordship should order a separate trial in this case. I have had an interview with the learned Solicitor-General in order to elicit his views on the matter, because I was quite sure he was not anxious to take any legal advantage which might work against either of

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[1] The Full Indictments ran thus:—

I. That they on 27th September, 1927, being concerned together, did at a spot on the Romford-Ongar road, in the parish of Stapleford Abbotts, Essex, kill and murder George William Gutteridge, a police constable of the Essex Constabulary, by shooting him with a revolver.

(Against the peace.)

II. Being concerned together, did on the 27th September, 1927, feloniously break and enter a lock-up garage adjoining Shirley, London Road, Billericay, Essex, and steal therein a Morris-Cowley motor car, value £175, the property of Edward Richardson Lovell (parish of Billericay). (Contrary to section 26, Larceny Act, 1916.)

III. *Against Browne only:* For that he on 29th January, 1928, at 7a Northcote Road, Clapham Junction, did have in his possession and under his control four revolvers and a quantity of ammunition with intent to endanger life. (Contrary to section 7, Firearms Act, 1920, and section 3, Explosive Substances Act, 1883.)

(Parish of Wandsworth.)

IV. *Against Kennedy only:* For that he on 25th January, 1928, at Copperas Hill, Liverpool, did attempt to discharge a loaded automatic pistol with intent to murder William Guthrie Mattinson, a detective sergeant, Liverpool City police. (Contrary to section 14, Offences against the Person Act, 1861.)

V. For that he on the 25th January, 1928, at Copperas Hill, Liverpool, did have in his possession and under his control a loaded automatic pistol with intent to endanger life.

Mr Lever

the defendants in a trial of this kind, and the Solicitor-General sees no reason why the trials should be taken separately, and on that point I must make the application, because I feel personally a great difficulty if these trials are taken together, and I think the interests of Browne would be best concerned by invoking your lordship's power, which you have in cases of this kind, to order a separate trial. I cannot conceive any case in which the indications are more clear than that a separate trial should be had than in the present case, and I cannot conceive of any case where such an application as I am making could be made if this is not the case.

I propose to enumerate quite shortly a few of the, perhaps all, the main grounds on which I base my application, and I will refer your lordship to certain authorities which I have no doubt are familiar to you, but I want to accentuate a few of the judgments which seem to me to be particularly apt to this case in which I appear. Now, my lord, the facts on which I rely are these: First of all, this is the most serious charge known to the law, the charge of murder, and, therefore, it is a charge in which the Court would be superlatively careful, I am certain, that nothing should be done in the conduct of the proceedings, or in the matter of procedure, which would by any conceivable chance work harm to either of the accused. The second ground is this—and in this respect I will endeavour to differentiate this case and cases where applications have been refused—it is a case where the incidents of the alleged murder are in a very small compass, that is to say, it does not depend on anything in the nature of conspiracy between the two accused; it does not depend on any facts which surround a domestic tragedy where the parties have been living together where they are mutually associated over some time and there is a course of mutual conduct conducive to the final tragedy; it is simply a separate incident which therefore does not call for this, that the jury should have any special information in order to enable them to understand the case clearly as to the relationship existing between the parties relevant to the final act of the tragedy, it is quite a separate and distinct matter. The next point, of course, is this: As your lordship no doubt is aware, a statement has been made by Kennedy which is of a very special character; it is a statement which in its terms incriminates the accused for whom I am appearing, and it is rather more than that, because I am quite aware that on that ground alone I do not think this application could be supported—it is not only a statement which contains matter adverse to my client, it is a statement which really includes the very salient points of this case; that is to say, it describes the dramatic final incidents, and in doing so it describes them in a perfectly graphic way—whether true or false an absolute graphic way, and they are incidents of such a character that they must stamp themselves upon the minds of the jury; they must, I submit, undoubtedly

Mr. E. F. Lever.

Mr Lever

stamp themselves, and my contention is that even a jury all composed of trained lawyers could not get their minds in conformity with the legal reqirements of this case—I am assuming, of course, your direction from the bench will be perfectly clear and perfectly cogent; but my contention is that it is not within the human nature of a jury called from the outside world to eliminate from their consideration, not only a statement which is against the accused Browne, but which is so graphic, so salient, standing absolutely alone in the evidence. If your lordship is at all acquainted with the evidence which has been given, I think I may say this quite generally that, apart from that statement, there is nothing which brings Browne into the district, but in that statement the very scene of the tragedy is set forth, and I submit when you get a statement like that, standing perfectly alone in a different class from all the rest of the evidence, and of such a very special nature, although it is possible in certain cases, in cases of different statements, for the jury to eliminate the statement of one accused when they are trying the innocence of one or the other; but as to this statement, having regard to the clear description which is contained in the statement, and all the other evidence, it would be impossible for the jury to dismiss that. The matter does not rest there, because it is quite obvious that this statement is not only one which contains much which is adverse to my client, but without reading any of the depositions I can refer your lordship to the deposition in which the inspector—I think one of the police inspectors—gives his account of how this statement was arrived at. Now, merely just referring only to the point I want to make; it is this, that apparently before making the statement Kennedy is apparently considering what course he shall take, and he is distinguishing in his mind between being convicted for murder and being convicted as an accessory after the fact, and the statement is prefaced from that consideration, that he prefers a conviction of himself as an accessory after the fact to a conviction as a principal in murder, and it is on those grounds that the statement proceeds, and that is the express motive of the statement. It is essential for the defence of Kennedy that he shall establish, or there shall be established, the fact of my client's guilt as a principal, because it is only on that assumption that this desire to be convicted as accessory is based, and, therefore, he comes before the Court not only as a person who has made a statement containing matters adverse to my client, but he comes to the Court on the express grounds that he wishes my client to be convicted as a principal, in which case he hopes to be convicted as an accessory only, and in those circumstances I submit those statements must be prejudicial against one accused, and certainly against my client. Kennedy[2] will be called as a witness in the case, and Kennedy will be giving evi-

[2] In the event he was not so called.

Mr Lever

dence; what sort of evidence? If the prosecution were calling Kennedy, I anticipate that Kennedy's status would be established one way or the other before he was called. That would, at any rate, be very largely in accordance with the very great majority of the practice, and Kennedy would then be standing as a person whose status was disclosed, and we would know how to deal with it; he would be called by the prosecution, and his evidence would be the evidence of the prosecution, and they would not have, as they now have under these present circumstances, all the advantages which lie in cross-examination; he would be their witness, and they would be obliged by the rules of evidence when eliciting the evidence from their own witness; but now, although he is practically their witness, and although he is nominally not a witness against me, they would have all the advantages of cross-examining this man who is not called as their witness but whose evidence should weigh because he is going to try and establish part of what they are going to try to establish. I shall have to deal with that in some sort of way, and I do not want to meet Kennedy in the box under those circumstances—the mixture of statements and the doubtful nature of the position; and the obscurity which probably will and must supervene on that in the minds of the jury is an obscurity from which my client has everything to suffer. As I say, I do not think I could elaborate any one of those points, but I submit that it, standing alone, is strong and cumulative, and it makes it all the more necessary for the exercise of that discretion which your lordship is well aware you possess. I want to assist the Court as far as I can, although I am sure the Court needs very little assistance from me, but I have looked up the authorities, with the assistance of my learned junior, Mr. Frampton, and there are certain expressions in some of the judgments which seem to me to support the very circumstances which I am relying on to indicate that this is a case in which such an order as I am asking for should be made. I am not dealing with the earlier of the cases, and I will not go back further than the case of *The King* v. *Bywaters*,[3] which is reported in the Criminal Appeal Reports, vol. 17. That case in its nature was very, very different to this case. As your lordship no doubt remembers, the accused were jointly indicted, and there were letters which had been written by the female accused, Mrs. Thompson, to the male accused, Bywaters, and those letters contained, among other things, inducements to commit a crime such as both of them were eventually convicted of. In that case the Lord Chief Justice said, at p. 68: "Many of her letters have been preserved, and those letters were certainly used as some material to help the jury to arrive at a true conclusion with regard to this appellant. It is not necessary, in dealing with this appeal, to enter further into the nature

[3] See the volume in "Notable British Trials."

of the contents of the letters, but it was said by counsel that it was wrong for the appellant and Mrs. Thompson to be tried together. That was the first ground of the appeal. Decisions have been given again and again by this Court—the cases are so numerous that it is not necessary to refer to them—that it is a matter of judicial discretion whether two persons should or should not be tried separately. In this case the learned judge, exercising his discretion, decided that the present appellant and Mrs. Thompson should be tried together. In the opinion of this Court there is no ground at all for unfavourable criticism of that decision. On the contrary, this was clearly a case in which, in the interests of justice, it was desirable that the two accused should be tried together. It was said that the effect was that many of the letters written by Mrs. Thompson to the appellant were used as material from which the jury might form an unfavourable conclusion with regard to Bywaters, but exactly the same thing would have happened if the accused had been tried separately. In the one case, as in the other, the letters would have been given in evidence. It was further said that the result of the trial of the two accused together was that Mrs. Thompson became, as otherwise she might not have been, a witness in the case against Bywaters. No doubt, if the result of trying together two persons who might have been tried separately had been a miscarriage of justice this Court would interfere. But what is meant by miscarriage of justice? It means that a person has been improperly found guilty. It is idle to suppose that a miscarriage of justice has taken place if an accused person against whom there is overwhelming evidence suffers some further evidence because another accused person goes into the witness-box." I do not for a moment stop to say I am making this application not as an application to the Court of Criminal Appeal on the question of the miscarriage of justice in the evidence which will arise, because no evidence has been given; I am making this application to a Court of first instance, and I am not making it on the evidence which will be given, but on the probable course the trial will take. The Lord Chief Justice says: "No doubt, where the defence of one accused person is to incriminate another, that is a good reason for not trying them together." It is on that expression of opinion rather than decision that I rely in quoting that particular case.

The next case that I call your attention to is the case of *The King* v. *Dorothy Lee and Florence Parkes*, and that is reported in 13 Criminal Appeal Reports, at p. 39. The head-note in that case is: "When it appears that the defence of each of two persons jointly indicted is incrimination of the other, the Court favours a separate trial of each." In that case the appellants were convicted of manslaughter of a child that died from starvation. Lee was the mother of the child and Parkes was the mid-

wife who had care of her, and each was incriminating the other as to the providing of food for the child, and Mr. Justice Darling says: "The Court is of opinion that the appeals of both appellants should be dismissed. At the same time, we desire to express the opinion that it would have been better if the trial judge had acceded to the application of counsel for separate trials." That is all that is said there, but the Court of Appeal was, of course, deciding against the appeal on the general grounds on which they were entitled to decide against the appellants. There is an expression of opinion in a case which I submit is not so strong where the two people were providing the food; they were living in the same home or house, and it might have been said that it was necessary really for the understanding of the case for there to be a joint trial, but in spite of that the Court held, on the ground that there was incrimination one against the other, that the trials should have been separated, and it is in that general form: "When it appears that the defence of each of two persons jointly indicted is incrimination of the other, the Court favours a separate trial of each." That came into question in a subsequent case reported in the same volume at p. 134, the case of *Walter Gibbins and Edith Rose Proctor*. In that case the man and the woman he was living with were jointly indicted for the murder of his child by his wife, and *Lee and Parkes* is quoted there, and Mr. Justice Darling said: "The head-note there goes beyond the decision of the Court, which laid down no rule of general application." That is a criticism of it (it is not a general application, of course), that each case must depend on its own circumstances. Then the decision is at p. 136: "When they were put on their trial both counsel applied that the accused should be tried separately. Thereupon Mr. Justice Roche said, in answer to the suggestion that it would be impossible to separate the evidence against the two, 'I have no doubt it will be done, can be done without any detriment.' The trial proceeded after that. The rule is that it is a matter for the discretion of the judge at the trial whether two people jointly indicted should be tried together or separately. But the judge must exercise his discretion judicially. If he has done so this Court will not interfere, but that is subject to this qualification. If it appeared to this Court that a miscarriage of justice had resulted from the accused being tried together it would quash the conviction. Here it is clear that Mr. Justice Roche exercised his discretion; he separated the defences carefully, pointing out what was evidence against one accused and not against the other. It is not enough to say that counsel could have defended them more easily if they had been tried separately. There is no ground for thinking that there was any miscarriage of justice. There may have been many things made clear to the jury which would not have been made clear if the prosecution had been embarrassed by having to deal

with the two cases separately. The whole story was before the jury of what went on in the house where the two appellants lived together." I was referring rather to this when I pointed out that in this particular case that is before your lordship no consideration of that kind arises, and in this case the two parties were living together, and the method of their living together with reference to what happened subsequently was important, as was explained at the trial, and that is what Mr. Justice Darling was referring to when he said: "The whole story was before the jury of what went on in the house where the two appellants lived together. There is no ground for thinking that either of them was improperly prejudiced by their being tried together." The last case, and the most recent case, I think, that is reported—I am not aware of a more recent one—is *The King* v. *William Seymour*; it came before the Court of Criminal Appeal on 18th August, and is in the present volume of the Criminal Appeal Reports at p. 98.

Mr. Justice Avory—What is the number of the report?

Mr. Lever—Volume 20, p. 98. The head-note is: "When a statement by one defendant intended to be put in evidence implicates another the Court of trial should consider whether they should not be tried separately." That was a case in which a number of people were charged together with receiving certain stolen property, and one of them, a man named Fowler, had made a statement about the receiving which contained matters strongly against the appellant Seymour, and in the course of the argument, which is stated at p. 99, there is this: "Only one point calls for report; the co-defendant, Fowler, who was ultimately convicted, when arrested by the police, made a statement which, if true, was conclusive of appellant's guilt. This statement was given in evidence." "Mr. Harris explained that the jury were warned by the Court and by counsel on both sides that this statement was only admissible against Fowler." Mr. Justice Wright said: "Was there any application to try the defendants separately? Mr. Armstrong—No. Fowler had been of great assistance to the police, and he could have been called against Seymour. Mr. Justice Wright—The proper course was to try Fowler first and then call him." Dealing with that part of the case, before stating the facts—I do not think the facts are very material—I will only just say generally that some stolen articles were packed in a barrow, and on the barrow was some green stuff, and Seymour's defence was that he bought some green stuff on the barrow and did not know what was underneath it, and Fowler made a statement dealing with the thing. In the judgment Mr. Justice Branson says: "Now, it appears to us that putting together the whole of the evidence it does not amount to enough to justify a verdict against the appellant; it amounts to suspicion and no more, and we think that it is unsatisfactory that

Mr Lever

a conviction should have been arrived at by the jury upon the evidence, and the more so because, owing to the fact that all these accused persons were tried together, it became necessary for the prosecution to read before the jury the statement made by Fowler containing a considerable amount of detail about what Seymour was alleged to have done in taking part in receiving and disposing of these stolen goods, and, though counsel warned the jury and the Deputy-Recorder warned the jury that what Fowler said in his statement was only evidence against Fowler himself, and not against the other accused persons, it is plain that an atmosphere of suspicion against Seymour must have been created by the reading of the statement, and, coupling that fact with the absence of any real conclusive evidence against Seymour, we think that the proper course is to allow this appeal and quash the conviction against the appellant." The Court there was proceeding on the ground of miscarriage, but the observations of the learned judge are certainly intended, I submit, to be a guidance to a Court of first instance when without knowing what the evidence is and what the results of it may be as regards its weight and tendency, and so on. In a Court of first instance as a first step an application is made that these two accused should be tried separately. Another decision which my learned friend, Mr. Frampton, junior, has found for me is an Irish decision, and it is rather shortly stated, but I think I ought to bring it to your lordship's notice. It is the case of *The King* v. *Taylor and Mary Daly*, reported in the *Irish Times* Law Reports at p. 28, vol. 37: "A and B were jointly indicted for the murder of C. The deposition disclosed statements made by A in the absence of but incriminating B. Held that the proper course was to try the accused persons separately." Taylor and Daly were jointly indicted for murder. Mr. Justice Kenny in his judgment: ". . . the arguments I do not think I need read; it was argued by the prosecuting counsel that the cases were so closely connected that they should be tried together." The judgment says that: "The jury would probably be influenced as against both accused by statements which were evidence against one and not against the other. They could hardly be expected to keep distinct as they should in a joint trial the legal weight to be attached to the statements as regards each accused. A learned colleague, one of the greatest lawyers on the bench, concurs in the view that the accused could not be fairly tried together, but should be tried separately."

That is the whole of the decisions applicable to the present contention. On these decisions I would suggest there is a broad line to be drawn for the purpose of the guidance of the learned judge to whom such an application as this is made, and the cases are very clearly distinguished into two broad classes: first, the class in which there is a statement containing matter which is

adverse to the other accused in which, apart from other circumstances, there is no such strong call for separation of the two cases; and the other broad class of cases are those in which there is direct hostility between the accused, direct incrimination the one of the other, and that, apart from other circumstanes, I submit strongly calls for a separation of the defence. Still, of course, the matter is within the judicial discretion, but when you get that direct incrimination the one of the other, and the other circumstances which I need not go into, but which I have called your lordship's attention to in the application, I do ask that your lordship should make the order I pray for in this case, an order that these accused persons should be tried separately.

Application by the Prisoner Kennedy.

Mr. Powell—If your lordship pleases: I desire to make a similar application on behalf of Kennedy. My learned friend has dealt fully with the law on the subject, and there is only one case I would like to call your lordship's attention to, and that is the case of *Jackson and Another*, reported in Cox's Criminal Cases at p. 357, tried in the year 1857. The head-note reads as follows: "Murder—Accused charged with a joint offence; separate trials—common and unlawful object. Where two persons charged with murder by the same indictment had made statements implicating one another, and those statements were evidence for the prosecution, the Court, upon the application of the counsel appearing for one accused, allowed them to have separate trials." The submission made to the Court there was: "It appears upon the depositions that the two accused have respectively made statements implicating one another as being connected with the charge which is to be inquired into. One of those statements was made by the accused Jackson when before the magistrates, and the other was made by the accused Brown to an inspector of police. They will be given in evidence on behalf of the prosecution, and will necessarily influence the minds of the jury. It is suggested, therefore, that the only way to ensure a fair trial is to try the accused separately, so that the statement of the one may not be in evidence before the jury upon the trial of the other. Baron Bramwell—I have spoken to my brother Martin, and we think that, if it is wished that the accused should be tried separately, it ought under the circumstances to be allowed." That is the only reference in the case to the question of separate trials. The grounds of my application—it may be that I have not such strong grounds as my learned friend, but the ground of my application would be that it is necessary in the interest of justice. A good deal of what my learned friend said under that heading applies to my case, and I will not add to it. My submission is, your

Mr Powell

lordship having read the deposition will be familiar with the evidence, that there is a good deal of evidence in this case to be given against Browne which is not evidence against Kennedy, and, human nature being what it is, the members of the jury will be in a difficulty in preserving that nice distinction between those two sets of evidence which they might be expected to preserve in other circumstances, and on the basis that prevention is better than cure, and in order to prevent there being any possibility of a miscarriage of justice, I ask your lordship to exercise your discretion in this case and say there shall be a separate trial.

Mr. Justice Avory—What do you say, Mr. Solicitor?

Reply by the Solicitor-General.

The Solicitor-General—It is admitted in this case that the mere fact that there is a statement made by one accused implicating the other is not a ground for asking your lordship to exercise the discretion which you are asked to exercise. Of course, the cases cited by my learned friend, Mr. Lever, say it is a matter for the Court to consider. Here it is not a question of one being charged as a principal and the other as an accessory after the fact; both are being charged as principals. The case for the Crown is that they were commonly engaged together on a joint purpose which resulted in the murder.

Mr. Justice Avory—And that they were together at the time?

The Solicitor-General—And that they were together at the time. I cannot accept the implication in what was said by my learned friend, Mr. Lever, that, except for various statements, there is no evidence bringing the accused Browne to the scene of the murder. On the contrary, my lord, I am going to invite the jury to consider a great deal of circumstantial evidence which in our submission tends to show conclusively that he was at the scene of the murder, and our case is that they were jointly concerned, as I say, in pursuance of a common purpose. My lord, my submission is that it would be farcical and redundant for a considerable mass of detailed evidence, apart from this statement, to have to be rehearsed twice over before two juries. It is said this is one of the cases like the case of *Lee and Parkes* and *The Queen* v. *Jackson and Brown*, where there has been mutual recrimination, one defendant saying that the other man was guilty, and *vice versa*. My lord, that is not so; the fact clearly is that one man has made a statement which does not in itself exculpate him; on the contrary, the Crown say it implicates him, although incidentally no doubt it inculpates the other man. On the other hand, although the statement has been in the hands of the other accused for some time, there has been no corresponding statement made by him, so it is not therefore a case of mutual re-

Reply by Solicitor-General.

crimination. In my submission, if there ought to be separate trials of this case, it is rather difficult to imagine a case in which two persons alleged to be jontly concerned should not be tried separately merely because one man has made a partial confession to some extent implicating the other. My lord, I oppose this application.

Mr. Justice Avory—Do you wish to say anything more?

Mr. Lever—I have only one observation to make upon the remarks of the learned Solicitor-General, and it is this, that I feel quite sure he did not in any way at all press the observation that one of the grounds on which he opposed this application was that it would be inconvenient; that is to say, it would be inconvenient because a good deal of evidence would have to be given twice and time would be wasted. I do not think he meant at all to press that, and, apart from that, I submit the submission I have made and the observations I have made would allow your lordship to grant the application.

Mr. Powell—The learned Solicitor-General points out this is not a case of recrimination. I would like to point out that the Lord Chief Justice in *Bywaters'* case said: " No doubt, where the defence of one accused person is to incriminate another, that is a good reason for not trying them together," and, therefore, in my submission, it is not necessary for me to show they are mutual, it is sufficient if one, and one only, had made a statement.

Mr. Justice Avory—In my opinion no sufficient reason has been shown for making the order which has been asked for in this case, and I must refuse the application.

[The jury were duly sworn.]

The Clerk of the Court—Members of the jury, the accused, Frederick Guy Browne and William Henry Kennedy, are charged on indictment that on the 27th day of September last they murdered George William Gutteridge. To this indictment they have severally pleaded not guilty, and it is your charge to say, having heard the evidence, whether they, or either of them, be guilty or not.

Opening Speech for the Prosecution.[4]

The Solicitor-General—On 27th September, 1927, between 3.30 and 6 a.m., on a quiet spot on a road between Romford and Ongar, Essex, Police Constable Gutteridge, of the Essex Constabulary, was murdered as the result of four separate wounds caused by shots from a revolver which fired service ammunition. In

[4] This and some portions of the other counsels' speeches are an amalgam of various newspaper reports.

The Solicitor-General

all probability, at the time he was killed, he was standing quite close to the driver's seat of a Morris-Cowley motor car, which had belonged to Dr. Lovell, of Billericay, and had been stolen earlier on the same morning, and was about to record certain particulars in his notebook in the execution of his duty.

On 20th January, 1928, Browne was arrested at his garage, the Globe garage, at Lavender Hill, Clapham, London, S.W., after he had alighted from an Angus-Sanderson car. Immediately after his arrest there were found in the car, in the garage or on his person, various medical instruments and appliances similar to those which had been left by Dr. Lovell in his car on the night before it was stolen, and which were not in the car when it was recovered. In the Angus-Sanderson car, in a pocket at the right-hand of the driver's seat, a fully loaded Webley revolver was found, and Browne admitted that he had had it in his possession since the previous April. It was submitted that at least one of the shots which killed Gutteridge had been fired from that revolver.

On 25th January Kennedy was arrested at Liverpool after a scuffle, in which he attempted to shoot with an automatic pistol the police officer who was effecting the arrest. On 26th January Kennedy made a statement at Scotland Yard. Let me say at once, and forgive me if I repeat it again, that that statement is evidence against Kennedy alone. It is not to be taken as evidence against Browne. In that statement Kennedy admitted that he was a party to stealing Dr. Lovell's car, and that he was present when Gutteridge was murdered, but he attempted to exculpate himself from participation in the actual murder. The case for the Crown is that Police Constable Gutteridge was shot by one or both of these men, and that, even if it is left uncertain whether the actual shooting was done by one or by both of them, if you are satisfied that both, being jointly engaged in stealing that Morris-Cowley car, were united in the common resolution to resist by violence any one who should oppose them, and if the murder were committed in pursuance of that common resolution, both the prisoners were guilty, although one only may have fired the shots.

In September, 1927, Kennedy was employed by Browne at the Globe garage. There was nothing—and it might be important to remember this later—so far as he could see, to show that Kennedy ever drove a car. He appeared to have managed the garage, looked after the books, seen customers, and so on. He lived at that time in the office belonging to the garage, where actually a few days before Browne himself had also lived. Browne had recently moved from the garage where he had been living to 33a Sisters Avenue, Lavender Hill, London, S.W. He then wore a flowing moustache, which a few days later was observed to have been closely clipped.

The Scene of the Murder.

The body was found on the left hand, against the bank, looking towards the picture.

Opening Speech for Prosecution.

The Solicitor-General

At 6.30 a.m. on 27th September Gutteridge was found lying on the offside of the road, some 630 yards nearer to his home at Stapleford Abbotts than a point at which he had parted from a brother constable at 6 a.m. His notebook was on the ground beside him, and his pencil was clutched in his right hand. On the near side of the road was a tyre mark close against the bank. Six feet nearer the constable was a pool of blood, whence led a trail of blood to the point where the constable was stretched. It was the kind of trail which might be made if a man, who had been shot where the pool of blood was, had staggered backwards and fallen against the side of the road with the blood spurting from his head. There were two sets of wounds. Two were through Gutteridge's left cheek and two were through his eyes. The suggestion which the Crown makes is that the first two wounds were received while Gutteridge was standing at the spot indicated by the pool of blood, and that the two wounds through the eyes were received while he was lying prostrate on the ground by the side of the road.

Of the bullets which had caused Gutteridge's death, one was a " Mark I," Royal Laboratory, Woolwich, service bullet fired from a cartridge loaded with cordite. That type of bullet was obsolete and extremely rare. Through the left eye a " Mark II " or " Mark IV " bullet had been fired, " Mark IV " also being obsolete and rare. Through the right eye had been fired a " Mark I " bullet from a cartridge loaded with black powder. At 7.30 a.m. on 27th September Dr. Lovell's car was found in a drive between two houses at Brixton. On the off-side running board the police found spots of human blood, while in the car was the shell of a spent cartridge fired from a service revolver and marked " IV " from the Royal Laboratory. The prosecution regarded that as most cogent and conclusive evidence. It was not left there by Dr. Lovell. Like other members of his profession, he is more concerned with healing than with lethal weapons. That cartridge case is a small clue, but imprinted upon it is the most cogent and conclusive evidence in this case.

When Browne was arrested on 20th January a pair of artery forceps were found in his possession similar to those which Dr. Lovell had left in his car. Browne said that he did not know where he had got them. In his hip-pocket there were found 12 service revolver cartridges, one of them being a " Mark IV." The only charge which had at that time been made against Browne was that of stealing a Vauxhall motor car, but Browne said: " That's done it. Now you have found them, it is all up with me." A stockinette mask was also found on him.[5] In a pocket by the driver's seat of the Angus-Sanderson car was found a Webley service revolver, fully loaded with six Woolwich " Mark IV " bullets. Browne said: " Ah, you have found that, have you? I

[5] See illustration opposite p. 73.

am done for now." In the office of the garage 16 more service cartridges were found, seven of which were "Mark IV" cartridges. Bandages, gauze, lint, another pair of forceps, a tube of ethyl chloride, all being similar to articles left in Dr. Lovell's car, were also found in the office.

At Browne's house were found a lens, an ear speculum, and a roll of plaster, all similar to articles lost by Dr. Lovell. There were also two packets of 23 "Mark IV" revolver cartridges, 11 separate cartridges of "Mark IV" ammunition, other cartridges, another service revolver fully loaded with "Mark IV" cartridges, and a smaller revolver, also fully loaded. When told of these finds, Browne said: "If you had stopped me while I was in the car I should have shot five of you and saved the other one for myself." Later on he said: "From what I can see of it I shall have to have a machine-gun for you bastards next time." On 21st January Browne's car was searched again, and in a cupboard behind the driver's seat was found another Webley service revolver fully loaded, two of the cartridges being "Mark I" cartridges, one of which was loaded with black powder and the other with cordite.

In the submission of the Crown it is impossible to overrate the significance of the fact that there was in Browne's car a revolver loaded in two chambers with ammunition bearing all the characteristics and of the make and loaded with the very powder associated with the bullets which inflicted two of the four wounds in the dead constable's head.

On 21st January Browne made a statement in which he said that he was born in 1881, that he was a motor engineer, and that he had come to London from the country in March, 1927. It continued:

"I have been away from the garage and from my home for about three or four occasions, twice to Sheffield, once to Dartmoor; and on another occasion I went to a fair in the country with a man named Dyson and stayed the night. They are the only times I have stayed away from the garage or my home at night.

"I have heard of Stapleford Abbotts, but don't remember ever having been through it. I think the first time I heard about the murder was when a policeman came to my garage and passed some remark. I do not take newspapers in, because I do not read them. I have not the patience. My wife has a picture paper each day, and I think she passed some remark about it.

"I have been asked by Chief Inspector Berrett[6] to account for the Webley revolver found in my possession, which was loaded in six chambers. I wish to say I have never fired the revolver since I first had it.

[6] Chief Inspector Berrett, of New Scotland Yard, was in charge of the investigations.

Opening Speech for Prosecution.

The Solicitor-General

" I got it some time in April last. I gave £3 for it down at Tilbury Docks from a sailorman whose name I do not know, neither can I describe him. The ammunition with which it is loaded I obtained from another man, together with a number of other cartridges shown to me, which were found in my hip-pocket.

" I knew the man I got the ammunition from in the Army. I do not wish to say who the man is. The ammunition is very old in type.

" Shortly after I got the revolver it began to go rusty, but I kept it well oiled. I have never used it.

" I loaded it so that it would frighten any one in case they interfered, and the reason I carried the weapon was because at the beginning of the war, when I was working for Pytchley Auto Car Co., Great Portland Street, W., delivering cars by road . . . once when I was going through Gloucester to South Wales, a man at dusk signalled to me when I was driving the car to stop . . . and as I was engaged on the near side speaking to him, two other men jumped on the off side running board and demanded money. I was unprepared, and gave them what little money I had.

" Some six weeks after that occasion, when going to Bournemouth with another car, the same kind of thing happened to me with a man calling on me to stop, but I declined. After this I made up my mind to be armed when taking cars to the country, and I purchased a revolver with a long barrel, but I had no ammunition. I later joined the Army, but have never been threatened since. The reason I had it on me to-day was because I had been on a country run to Devon.

" I have never been out in Essex at night driving motor cars or taking part in stealing motor cars."

Browne also said that the lint, bandages, tweezers, and ethyl chloride were kept in the garage in case of accidents, and he had bought them from various chemists. On 22nd January he was asked about the other weapons which had been found, and he made a further statement, in which he said—

" The revolver shown to me, a Smith & Wesson, which I am told was loaded and was found on top of my cupboard in my room, I also recognise. I have also been shown a Webley revolver, which I know was a second one found in the Angus-Sanderson car fully loaded. I have also seen 24 cartridges in a handkerchief found in my rooms, 11 cartridges found in my house .45 calibre, two packages of .45 ammunition, and 16 cartridges found on the dresser of the inner office of my garage.

" I admit they were where you said they were found, and I admit having them, but I decline to give any explanation of where I got them.

There is one more revolver, but I won't tell you where it was, as I might have sent you on a fool's errand. It was

hidden somewhere, but whether some one has found it or not I cannot say, as I have not been to look, as I heard one was found on the Embankment.

"I took my flat on 24th September, 1927 . . . I am confident I did not miss sleeping there for any night for some weeks."

On 25th January Kennedy was arrested at Liverpool. On being arrested he shouted to Detective Sergeant Mattinson, "Stand back, or I'll shoot you," and presented an automatic pistol. He pulled the trigger, but the safety catch was down, and, although fully loaded, the weapon did not go off. On the way to the police station in the custody of several officers Kennedy said, "It is all up now you've got me. How many more of you?" The significance of that statement, having regard to the fact that not a word had been said about the murder charge—or, in fact, any charge—was apparent when taken in conjunction with what he said later to Detective Mattinson. That officer had collapsed during the struggle, and, coming into the room where Kennedy was, the latter said, "I'm sorry. I've no grudge against the police, but you should be in Heaven by now, and there was one for me."

Next day Kennedy was charged with being concerned with the theft of a Vauxhall car. He replied: "Yes, I had a premonition something was going to happen to me to-day, and I intended going. You are lucky to get me. While I was in the house I heard a taximan being told to drive to the next street, and that gave me the tip." He was told he was going to be taken to London.

When he was taken to London he was brought to Scotland Yard, and there he saw Chief Inspector Berrett, who told him: "You are detained on a charge of being concerned with stealing a Vauxhall motor car, and I have been making inquiries for some time past respecting the murder of P.C. Gutteridge. Can you give me any information about the occurrence?" Kennedy replied, "I may be able to tell you something, but let me consider." He sat with his head on his hands, his elbows resting on the table, and then said, "Can I see my wife?" She had come up to London with him, and was brought into the room. "Well, my dear," he said to her, "when I was arrested in Liverpool yesterday I told you there was something more serious at the back of it. Well, there is. These officers are making inquiries about that policeman who was murdered in Essex." Mrs. Kennedy said, "Why, you didn't murder him, did you?" "No, I didn't," he replied, "but I was there and know who did. If I am charged with the murder and found guilty I shall be hanged, and you will be a widow. On the other hand, if I am charged and found guilty of being an accessory after the fact I shall receive a severe sentence of penal servitude and be a long time from you. Will you wait for me?" She said, "Yes, love, I will wait for you any time." Kennedy said, "Well, what shall

Opening Speech for Prosecution.

I do then?" Mrs. Kennedy replied, "Tell these gentlemen the truth of what took place." He said, "All right, I will," and, turning to Inspector Berrett, he remarked, "You can take down what I want to say and I will sign it."

The statement was a long one, but it was made—as will appear by the evidence of the inspector—after very careful consideration. It was in the following terms:—

"About 11.30 p.m., 25th January, 1928, I was arrested at Liverpool on a charge of being concerned in stealing a motor car. I have to-night, 26th January, 1928, at 8 p.m., been interviewed by Chief Inspector Berrett, and told he is making inquiries respecting the murder of P.C. Gutteridge at Stapleford Abbotts, Essex, on the morning of 27th September, 1927, and asked if I can give any information respecting it.

"I wish voluntarily to tell you what I know about the matter, having been cautioned that what I do say will be taken down in writing and may be given in evidence.

"At the end of either June or July, whilst I was at work on a farm at Cheshire, after my release from prison in November, 1926, I received a letter from a man known as Fred. Browne, which letter I have destroyed or handed to the representative of the Central Association in Liverpool.[7]

"In the letter he told me he was just starting a garage in Battersea—7a Northcote Road—and invited me to come down and act as manager. He said he would probably have a number of boys under him later, and that he would want me to look after them while he was away on repair jobs. He said he could not offer me much money at first, but it would cost me nothing for board and lodgings, as I could live at his garage.

"He sent me my fare, exact amount, and I borrowed 10s. from the representative,[8] to whom I think I gave the letter. I came to London and slept on the premises at 7a Northcote Road, at the back of the place used as an office. My duties consisted of attending to correspondence, keeping the books, making and dealing with accounts. The man Fred. Browne was also sleeping on the premises at the time.

"After this had been going on, I think, until about the end of August, Browne went to live with his wife at 2 Huguenot Place, East Hill. The wife had been in service. He used to come to the works each day at various times from 8 to 11 a.m., and stay till all hours, usually about 9 p.m., but sometimes later than that.

"I well remember the day of 26th September. He suggested that I should accompany him to Billericay to assist him in stealing a Raleigh car at the end of the High Street, away from the station. We went to a place which faces a large empty house standing in its own grounds. Browne entered the grounds of

[7] The Discharged Prisoners' Association.

[8] Of the Association.

the house where the Raleigh car was supposed to be. We went to Billericay by rail from Liverpool Street.

" I accompanied Browne into the grounds. Browne opened the door of the garage, I think with a key, and examined the Raleigh car, and we then left the garage and grounds, and hid in the grounds of the empty house and waited until the people owning the Raleigh car went to bed. Browne told me to wait in the grounds of the empty house, and Browne went to the garage where the car was stored. A dog came out, and, starting to bark, it made Browne leave and join me, and he said, ' It's no good here. We cannot get back by train, so we'll try somewhere else.'

" The time was then, I should think, about 11 p.m. We walked through the village again and came to a spot, which I now know is the doctor's house, on a sharp bend at the opposite end to where the Raleigh car was, and on the main London road. We saw the garage at the end of the doctor's house, and we went into a field opposite, and sat on some old palings or gates, and waited till the lights went out in the doctor's house. It was getting late, and must have been after midnight.

" After the lights went out Browne and I went to the garage, which is a wood structure, and he forced the doors with, I think, a small tyre lever or tool of some kind which he took with him. The door opened easily. He first examined the petrol tank and make of car, and told me it was a Morris-Cowley. It ran down on its own weight to the road, and we pushed it along about 100 yards in the opposite direction, or at right-angles to the main road. Browne said, ' We will go by the by-ways and escape the main road.'

" We then went for a long run round country lanes at great pace at different times. We got to several crossroads and corners where it was necessary for us to examine sign-posts, but eventually we got to a kind of main road on the way to Ongar. When we got some distance up this road we saw some one on the bank who flashed his lamp as a signal to stop.

" We drove on, and I then heard a police whistle, and told Browne to stop. He did so quite willingly, and when the person came up we saw it was a policeman. Browne was driving, and I was sitting on his left in the front. The policeman came up close to the car and stood near Browne and asked him where he was going and where he came from. Browne told him we came from Lea Bridge Road garage, and had been out to do some repairs. The policeman then asked him if he had a card. Browne said, ' No.' He then asked Browne, ' Have you a driving licence? ' Browne again said, ' No.'

" The policeman then again asked him where he came from, and Browne stammered in his answer, and the policeman then said, ' Is the car yours? ' I then said, ' No; the car is mine.' The

policeman flashed his light in both our faces, and was at this time standing close to the running board on the off-side. He then asked me if I knew the number of the car, and Browne said, 'You'll see it on the front of car.' The policeman said, 'I know the number, but do you?'

"I said, 'Yes; I can give you the number,' and said 'T.W.6120.' He said, 'Very well, I'll take particulars,' put his torch back in his pocket, and pulled out his notebook, and was in the act of writing when I heard a report, quickly followed by another one. I saw the policeman stagger back and fall over by the bank at the hedge. I said to Browne, 'What have you done?' and then saw he had a large Webley revolver in his hand.

"He said, 'Get out quick.' I immediately got out and went round to the policeman, who was lying on his back, and Browne came over and said, 'I'll finish the bugger.' And I said, 'For God's sake don't shoot any more, the man's dying,' as he was groaning.

"The policeman's eyes were open, and Browne, addressing him, said, 'What are you looking at me like that for?' and, stooping down, shot him at close range through both eyes. There were only four shots fired. Browne then said, 'Let's get back into the car.' We had driven close into the bank, and backed out a little, and drove on in the direction of Ongar. He gave me the revolver, and told me to load it while he drove on. I loaded it, and in my excitement I dropped an empty shell in the car. The other three I threw away into the roads.

"We drove at great pace through many villages, the names of which I do not know, but I know we went through Buckhurst Hill, and then Bow and the Elephant and Castle, and while on this journey Browne said, 'Have you loaded that gun again? If you have, give it me back.' I gave it to him, and he kept it on the seat by his right-hand side. He wanted to take the car to the garage, but I persuaded him to have nothing to do with the garage.

"We drove to Brixton and went up a road I don't know the name of, and drove into a cul-de-sac at about 5.30 a.m. We left the car and came out into the main road, and came by tramcar back to the garage, bringing with us two cases out of the car containing doctor's instruments. These, or the majority of them, were smashed up, and the cases were cut up into small pieces, which Browne later took out in his car and distributed about various roads in the country, so as to destroy all evidence, and I did not know that he retained any of the doctor's property.

"I forgot to mention that on our journey, after shooting the policeman, Browne turned into a tree owing to fog at a gate. The fog was very dense at that time. I think he damaged the near-side front wing. I was very excited at the time. We returned to the garage about 6 a.m. and commenced our work. Business

The Solicitor-General

carried on as usual. I suggested to Browne that we should go right away from London, as I knew inquiries were sure to be made. Browne said there was no danger and induced me to stop, and said if I made up my mind to leave him he would blow my brains out. He had the Webley revolver in his hand when he said this, and, as I knew it was loaded, I thought he would.

" I then later went to a newspaper shop and purchased the various editions of the papers, and in one I found that Scotland Yard[9] was supposed to have found finger prints, and again wanted to leave, and he said, ' No, you don't; you'll stop here and face it out with me. If any one comes up here there will be a shooting match.' I remained in the garage till December, and we saw newspapers on different dates relating to the crime, and saw the account of the renewed inquest in November, and the reward . . . and Browne said, ' They are still harping on that thing yet.'

" In December I told Browne I was going away, and he made no objection then, and drove me to Euston in the car about, I think, 17th December, 1927. I then went to West Kirby, Liverpool, to an address I don't want to mention, and remained until 13th January last when I returned to London with the woman I have married, and I have lived at 2 Huguenot Place till last Saturday, 21st January, 1928, when I left and went back to Liverpool, where I was arrested.

" Since I came to London on 13th January I have called at the garage on two occasions, and he said, ' Hullo, you've come back.' On the first occasion no mention was made of the crime. On 17th January, 1928—a Tuesday—he wanted me to go to Devonshire with him in the car, but my wife persuaded me not to, and told me that, whatever he was going for, I was better out of it. I think Browne went, and I left.

" I went to the garage again at 2 p.m., Saturday, 21st January, 1928, and when I got to the entrance I found the gate locked, and saw two men, who I took to be detectives, and suspected something was wrong. I went to my wife and told her to pack, as we were going away, giving her no reason. I went to Clapham Common, and sent a bogus telegram to myself saying some one was ill. This was an excuse I made to explain our leaving, and also I hoped to get some of the rent back I had paid, and the landlady gave me back three weeks' rent. I then went to Euston and left for Liverpool by the midnight train, and was arrested, as previously stated.

" I have seen Browne in possession of two Webley revolvers, which were always kept loaded, and he had plenty of ammunition. He also told me he had a Smith & Wesson, but I never saw it. I

[9] New Scotland Yard possessed both Browne's and Kennedy's finger prints; but none were found on the car that were identifiable as theirs.

believe he kept it at home. He also had a small nickel .22 revolver, which was also kept at home.

" I have been worried ever since the murder of the constable, and at times I became desperate, expecting I should be arrested and not knowing what to do.[1] I have made this statement quite voluntarily, after being cautioned, and am prepared to give it in a Court of law if necessary. It has been read over to me, and all I have stated is the whole truth of what took place on the night of 26th-27th September, 1927."

The Solicitor-General then described how the revolver found in Browne's Angus-Sanderson car was identified as the weapon used in the murder. An examination of the revolver, he said, showed certain peculiarities which, on microscopic examination, were found to tally with a spent shell or cartridge discovered near the scene of the murder.[2] When a cartridge was fired the pressure was 5½ tons to the square inch, and the effects of firing would be explained in detail to the jury, who would have the assistance of photographs and enlargements.

In conclusion the Solicitor-General said : " There is Kennedy's statement implicating him as clearly as words can make it, in his presence at the time at the place of the murder. And though, as I say, he expressly disclaims any part in the shooting, there are surely two things in that statement of which it might occur to you that no satisfactory explanation is given."

He referred to the alleged admission by Kennedy that he reloaded the revolver after Browne had shot the constable, and asked, " What possible inference can you draw from that, except that then and before then, as I suggest to you, these two men were determined by any means to resist anybody who opposed their escape?

" Try to picture to yourselves the mentality of a man who, according to his own statement, had seen a fellow-man murdered in cold blood and is prepared to reload the revolver and hand it back to the man sitting next to him in the driver's seat of the car."

The Solicitor-General also referred to the alleged attempt to shoot Detective Sergeant Mattinson at Liverpool, and said that the attempt only failed because Kennedy had not the time to operate the safety catch of his revolver.

" Is that an incident, or is it not, consistent with these men in common with each other on 27th September being united in the common purpose of resisting all who should oppose them?

" The Webley revolver was found on the right-hand of the seat of the car from which Browne had just stepped at the moment

[1] This is typical of the mentality of the murderer; fear of arrest and punishment, but no remorse.

[2] It was found in the car at Brixton.

The Solicitor-General

of his arrest. The cartridge case was found in the motor car stolen on the evening of the murder.

"Remember that this cartridge was the comparatively rare Mark IV, and ask yourself this question: 'How does Browne account for the possession of that weapon, how does he account for the possession of that sort of rare ammunition, some of which was used in the perpetration of the murder, except on the footing of his own complicity in the murder, at which Kennedy confessed himself to have been present?'"

Evidence for the Prosecution.

FREDERICK MASTERS, examined by Mr. ROOME—I am a police constable and am accustomed to preparing plans. I prepared exhibit No. 46, which is a plan showing a portion of the road between Romford and Ongar.[1] I was shown a spot on the road marked in the lower section of that plan as the spot where the body was found. It is not so marked on the plan, but it is where the width is written as 17 feet 6 inches. From that spot to the conference point at Grove House is a distance of 638 yards. From that spot to P.C. Gutteridge's house is a distance of 1680 yards. From the conference point to P.C. Taylor's house is a distance of 1 mile 1533 yards.

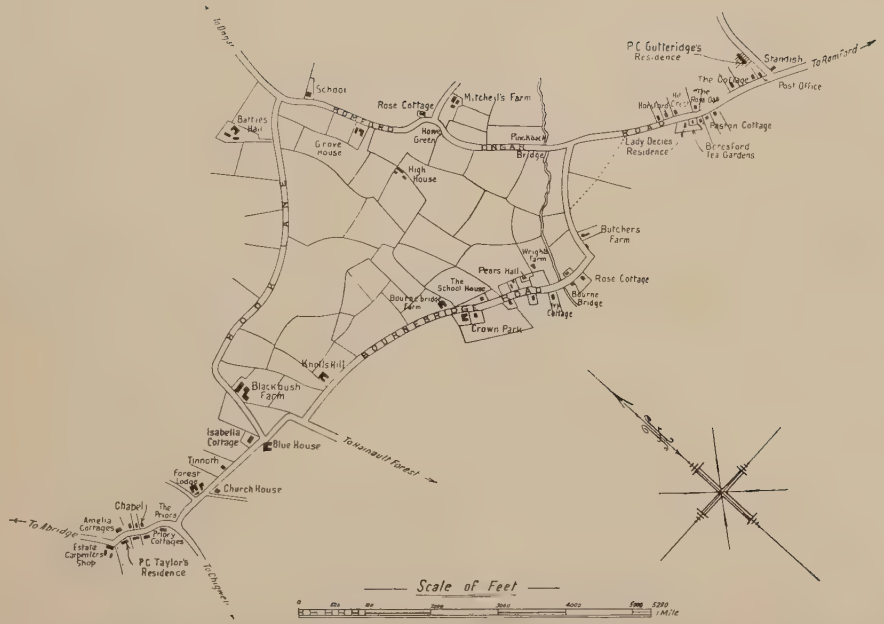
Cross-examined by Mr. LEVER—At the spot where I was told the body was found there is an upper gradient in the direction of Ongar of about 1 in 30. On the side of the road where the body was found the bank is about 3 feet in height, and is divided from the fields by a hedge. The bank is almost perpendicular; it is soft earth and hollowed out. The width of the road at that point, as I have already said, is 17 feet 6 inches.

EUSTACE CHARLES WYRALL, examined by Mr. ROOME.—I am a photographer, and I live at Ilford. On the 27th of September last I went to the spot on the Romford-Ongar road, where there was blood on the roadway, and I took a photograph of the road looking in the direction of Romford. It was looking downhill. The white line across the road is the carbolic powder, which was sprinkled on the line of the trail of blood from the pool of blood to the side of the road.[2]

Mrs. ROSE ANNETTE EMELINE GUTTERIDGE, examined by Mr. ROOME—I am the widow of P.C. Gutteridge, and I lived with

[1] See plan, p. 53.

[2] See illustration opposite p. 43.



Plan of the Neighbourhood of the Murder.

him at Townley Cottages, Stapleford Abbotts, up till the 26th of September last. He returned from duty on the 26th September at about six o'clock. I remember going to the mortuary at Romford and identifying my husband's body.

Cross-examined by Mr. LEVER—Do you know a man named Fairchild?—No. My husband did not have any quarrel with any man at our house just before he met his death.[3]

SYDNEY JAMES TAYLOR, examined by Mr. M'CLURE—I am a constable in the Essex Constabulary stationed at Lambourne End. In the early morning of the 27th September last it was my duty to make a conference point with P.C. Gutteridge, and for that purpose I left my home at about half-past one in the early morning of the 27th. I went along Hook Lane towards the point. The point was at Howe Green outside Grove House. I had to be there at three o'clock. I met P.C. Gutteridge within 100 yards or so of the point, and we went there together. We stood there until we passed a remark about the time, which was twenty minutes past three, and we remained talking a few minutes afterwards. I left P.C. Gutteridge shortly after twenty-five past three and went towards my home. P.C. Gutteridge was standing opposite Grove House when I left him. I got home about twenty minutes past four. My house is barely 2 miles from Grove House.

Cross-examined by Mr. LEVER—Constable Gutteridge's duties did not cease to exist at the conference point; they continued until he arrived home. It was not an exceptionally dark night, but it was fairly dark. There was a fog, or what I would describe as a summer mist, in certain of the lower places in my district, but not on the high hill. I could not say whether there was any at Howe Green when the murder took place. I did not go down there. I do not know a man named Fairchild. I was not with P.C. Gutteridge when he had an altercation with any one. I did not know of any altercation between him and a man Fairchild, living at Brentford, who had been in a lunatic asylum.

WILLIAM ALEC WARD, examined by Mr. ROOME—I am a motor engineer. On the morning of the 27th September last I was conveying mails from Romford to Abridge. I first of all made a call at Havering. I was driving a touring car. I left a mail bag at Havering at about twenty minutes to six. My next call was at Stapleford Abbotts. The post office there is near Townley Cottages. I handed in a bag there, and then went on towards Stapleford Torney. Near Howe Green I came to a bend in the road as I was going up a slight incline, and when I turned the

[3] Ineffectual efforts were made to attach guilt to others than the accused. All were completely exonerated.

bend I noticed a huddled-up form at the side of the road on my right.

As you got nearer, what did you see?—Two legs towards the centre of the road. It was P.C. Gutteridge.

By Mr. Justice Avory—Did you know him before?—Yes.

Examination continued—The legs were protruding right out towards the middle of the road.

Did you call to him?—Yes. I then got out. He was lying in a sort of semi-sitting position resting against the bank. His left hand was closed. I took hold of his hand, and it was cold. In his right hand there was a pencil. I also noticed a pocket book on the ground and his helmet. I immediately went to a cottage near by and fetched the occupier, Mr. Perritt. Mr. Perritt and I then returned to the body. We met a bus driver named Warren and spoke to him. Later on I went to Stapleford Torney and telephoned to Romford Police Station. I did not see any sign of life in P.C. Gutteridge that morning. I did not notice any mark on either side of the road in the nature of the mark of a vehicle.

Cross-examined by Mr. Lever—My car probably made a mark on the near side of the road where it stopped. Speaking of the near side of the road I mean the near side going from Romford towards Ongar—the side opposite to where the constable's body was lying. When I noticed the body protruding into the road I naturally drew in on my near side, and the mark on the bank on the near side, I should imagine, would be caused in that way. As far as I know, I was the first person to see the body of P.C. Gutteridge on that morning after his death. As I have already said, he was in a semi-sitting position with his back against the bank. If at a later stage he was lying on the road full length, or lying not in a semi-sitting position, the body must have been moved after I saw it first. I did not notice any marks indicating that he had tried to get up, or anything of that kind.

It looked as if upon being shot he had died in a semi-sitting position?—I did not know he had been shot.

No; but that was the impression he gave?—Yes. I know the roads about there. I should say that going by road the distance from that spot to Billericay would be about 13 or 14 miles.

Cross-examined by Mr. Powell—I did not examine the road to see if there were any marks on the road.

Alfred Perritt, examined by Mr. Roome—I am an insurance agent, and I live at Rose Cottage, Howe Green. On the morning of the 27th September last, about six o'clock, I was wakened by Mr. Ward knocking at the door. I at once dressed, and, in consequence of what he told me, I went out with him in

the direction of Romford about 250 yards from my house. It is downhill. As we went along, I saw the body of P.C. Gutteridge. He was lying on his back with his head downhill. I moved the body; I got hold of his ankles and lifted his feet towards the hedge to prevent any vehicles going over them. His head was lying near to the hedge. After I had moved the body the legs were slightly uphill and the head rather downhill. I saw no signs of struggling on the road. I saw blood.

Cross-examined by Mr. Lever—I saw a large splash of blood in the centre of the road, but that was not the only blood I observed; there were splashes of blood across to where the body was lying in a pool of blood. When I first came up to the body the shoulders, I believe, were lying on the bank, which would make it look as if it was in a semi-sitting position. The right shoulder was resting on the bank. The legs were lying uphill in the direction of Ongar at an angle of 45 degrees. I moved them from that position into what I would call the gutter of the road. In other words, I moved the body so that it was lying parallel with the hedge instead of being across the road.

John Crockford, examined by Mr. M'Clure—I am a detective inspector in the Essex Constabulary stationed at Romford. At about 7.45 in the early morning of 27th September I left my station in a car and went to the spot where I found P.C. Gutteridge's body. When I reached the body it was lying by the side of the road. I noticed a notebook lying close to the body. A little farther up the hill his helmet was lying in the road. I noticed blood on the road. The blood started 6 feet from the near side of the road as you go uphill till you came to the deceased's head. It was a continuous trail of blood. At the place where the head itself lay there was a pool of blood. There is no entry in the pocket book relating to this charge. The constable was wearing his cape. I examined the body.

I think you found two wounds in the cheek and two other wounds in the eyes?—At that stage the eye wounds were not noticeable.

Did you notice anything about his dress, about the buttons on his tunic; were they all buttoned?—The two buttons of his tunic were undone, and his whistle was hanging from his pocket on his chain. It was outside his pocket. His pencil was in his right hand between his thumb and finger. The whistle is generally carried in the pocket. His truncheon was in his truncheon pocket on his right-hand side. His torch was also in his pocket. I examined his cape and the collar of his tunic. I found there was a ragged cut on the right-hand side of the collar of his tunic, immediately on the numbers. There was also a tear on the back of his cape at the back slightly on the right-hand side.

John Crockford

Was there any mark on the cape close to where the markings of the tunic would be?—A slight cut.

By Mr. Justice Avory—In the back of the cape?—On the back of the cape.

Examination continued—About what size would the cutting be in relation to the size of the bullet?—I can only say it would be consistent with the cut of some bullet or some sharp instrument. I sent for a doctor, and Dr. Woodhouse arrived at nine o'clock. The body was then removed to the cart-shed at the Royal Oak public-house, and the next day it was removed to Romford Mortuary. After the body had been removed I went back to the spot where I found the constable, and I saw Detective Norman, and he handed me two bullets. I handed them to Chief Inspector Berrett. There is always a police officer on duty at night at Brentford on the London-Chelmsford road.

Cross-examined by Mr. Powell—Did the fact that the police officer's whistle was hanging loose indicate to you that he had probably blown it?—It did cross my mind at the time. It was consistent with that. The whistle is usually carried, I think, in a breast pocket on the right.

If Kennedy says the whistle was blown, that would be consistent with that statement?—Yes.

If Kennedy says the officer put his torch back in his pocket, that would be consistent with what you found?—Yes. I did not find any of the bullets personally, but I found the collar of the tunic and the cape damaged as if by a bullet.

Alfred Norman, examined by Mr. M'Clure—I am a detective in the Essex Constabulary. On the 27th September, 1927, I went to a place on the Romford Ongar road, where I saw some blood. It would be about 9.30 a.m. when I arrived there. By the time I arrived the body had been taken away. I saw a pool of blood at the roadside. I searched about at the spot. The pool of blood I have referred to was close to the bank. I found a bullet embedded in the road about a quarter of an inch in the softer substance of the road. It was underneath the pool of blood. Police Constable Saich was with me at the time, and I saw him find this other bullet. He found it about 2 to 3 inches from where I found the first. It was not embedded in the ground; it was lying on the top. The two bullets were parallel with the edge of the road. I handed these two bullets to Inspector Crockford.

Cross-examined by Mr. Lever—From the position in which you found these bullets I suppose you would come to the conclusion that they had been fired substantially close together, at the same time?—Well, I did not come to any conclusion.

Mr. Justice Avory—It would have been very rash if you had.

Cross-examination continued—At any rate, they were within

2 to 3 inches of each other?—Yes. They were both lying in the same pool of blood.

So that if one of these bullets had been fired when the constable was standing up somewhere in the middle of the road, and the other fired into his eye while he was lying on the ground, by some means or other these two bullets had got to the place where you found them?—Yes.

But you did not speculate about them?—No.

Do you know that one of the bullets that were fired into the man's head was found in his eye afterwards?—Yes, I did hear that.

So that one apparently of these bullets had been fired into his eye and one some way away?—Apparently so, yes.

And so, somehow, they must have come together?—They were there. When I got there the body had been removed; I did not see the body.

Cross-examined by Mr. Powell—With regard to the two bullets you found in the pool of blood, one was embedded in the road, would that be consistent with the bullet having been fired while the unfortunate officer's body was on the road, and that caused it to be embedded?—I could not say as to that.

But with regard to the other one, that may have dropped from the collar of his cape?—It may be so.

At any rate, it was not embedded, as if it had been fired at that spot?—It was not embedded, no.

Dr. Robert Arnold Woodhouse, examined by the Solicitor-General—I am a registered medical practitioner, and I reside at 75 South Street, Romford. I was called to the spot where P.C. Gutteridge's body was lying about nine o'clock on the morning of the 27th September last. Life was extinct when I arrived. As far as I could judge, he had been dead between four and five hours. The next day I made a post-mortem examination. There were altogether seven wounds in the head. As far as I could see, there were four entrance wounds and three exit wounds. The four entrance wounds have been divided into two groups, those in the cheek and those through the eyes, two of each. With regard to the wounds through the cheek, it was the left cheek, and they were in a line with the lobe of the ear, one an inch and a quarter from the lobe of the ear, and the other three-quarters of an inch from the lobe of the ear. As regards the one which was furthest from the lobe of the ear, I was able to trace the exit; I was able to pass a probe through it out at the other side. The exit was at the level of the ear about an inch in front of it, the track of that wound having risen an inch. It had gone through the palate and out through the jaw bone at the side, fracturing it as it came out. That wound taken by itself would not necessarily have been fatal. As regards the second wound, the wound nearer the ear,

Dr Robert A. Woodhouse

I also tried that wound with a probe and found that it came out on the right side of the neck 2 inches below the mastoid process on the right side. The track of that wound had fallen 2 inches.

When you talk about the track rising an inch or falling 2 inches, was there anything to show one way or the other whether the track of the bullet was in a direct straight line from the entry wound to the exit wound?—It was in a straight line; the probe went through straight from the entry to the exit. As regards the second wound I have just referred to, in its passage it cut through the right internal carotid artery, and death from that wound would have taken place very probably in the space possibly of a minute or a minute and a half from hæmorrhage. It is the sort of wound from which blood would be spurting. Coming now to the wounds, the skin round the wounds showed a large number of small black specks. There was a wound in each eye, through each eyelid, the one on the right being a trifle higher than the one on the left. The actual skin of the eyelids was broken as if something had been driven through it, and there was what I would call " peppering " round the wounds. It was the same on both sides of the face, only it was more marked in the case of the right eye than the left. They were bullet wounds somewhat oval in shape and scorched round the edges. That was in addition to the black marks I have referred to. I was only able to trace the exit wound of the wound in the right eye. I was able to get a probe in through underneath the right eye, and it came out through a large wound in the back of the head. In the case of the left eye the probe could not go through; it came to a dead stop. Later I examined the brain, and in the brain I found a distorted bullet. It was on the left side of the brain. That is consistent with it being the bullet which went through the eye. The bullet is considerably distorted; it is flattened at the nose. That must have been caused by it coming in contact with something. In my opinion, death was due to hæmorrhage and laceration of the brain caused by bullets.

Cross-examined by Mr. Lever—Is it your view that one of the bullets passing in through the cheek would cause death, as I understand it, in about a minute and a half from hæmorrhage?—That is so.

And, with regard to the shots through the eyes, one of those would cause instantaneous death?—Yes; either would produce that.

He did not move at all after that shot through the eyes?—Not voluntarily, no.

May I take it your view is this, that first there was a shot through the left cheek, which went slightly upwards, about an inch upwards, and then a shot through the left cheek which went about 2 inches downwards; and then two shots in the eyes afterwards?—Yes. I cannot give an opinion with regard to the first two—as to in what order they were fired; I do not think I could

decide which one of those two was fired first. They seemed as if they had been fired at a distance of about 10 inches from the man.

By Mr. Justice AVORY—Those in the cheek, you mean?—Yes. They had an area of scorching round of about one-eighth of an inch.

Cross-examination continued—Your theory is that the gun would be about 10 inches from him?—Yes, as near as I can say.

Inspector WILLIAM M'BRIDE, examined by Mr. ROOME—I am a detective inspector of New Scotland Yard. I produce a book of nine photographs taken by me. The first one shows the entrance to a passage between Nos. 19 and 21 Foxley Road, Brixton, which is the place where the car was standing. Then there are five photographs of Dr. Lovell's Morris-Cowley car in different positions.

Dr. ROBERT ARNOLD WOODHOUSE (recalled), further cross-examined by Mr. LEVER—You see there the light on the front wheel of the mudguard [in this photograph], also the driver's seat and wheel. Assuming that a constable was standing near the front light there, in order to be shot by the driver of the car, the driver really would have to shoot through the windscreen, would he not——

Mr. Justice AVORY—That is, if he was standing immediately in front of the car.

Mr. LEVER—If he was standing in front of the light.

The WITNESS—There is an alternative, of course, that he might reach round the edge of the windscreen and fire in that way.

Cross-examination continued—Otherwise, he would have to fire through the windscreen?—Yes.

Suppose, on the other hand, the constable was standing up in the road by the driver of the car, that would necessitate, for the driver to shoot him, that the pistol would have to be held up at a considerable elevation, would it not?—No; I do not know about that.

[Shown photograph of the car.] You know this Morris-Cowley car, I suppose. Don't you agree that if a constable is standing up there the driver is at a considerable lower elevation sitting in the seat?—Yes, he is lower.

And therefore the pistol would have to be in an elevated position?—If the constable was standing up.

And if he was standing up in that position you would expect the wound to have a much higher elevation?—Yes; the track would rise more.

As it is, we know one simply rose 1 inch and the other went downwards 2 inches?—Yes; but it is possible the person shot might be stooping.

Dr Robert A. Woodhouse

He would have to be stooping in some position close to the driver?—Yes.

And, of course, at some distance from the side light by the driver?—Yes.

If the driver took out a revolver to shoot in that position, it would be quite easy for anybody next to him to see that going on, would it not? It would take some appreciable time to draw and level the revolver?—I do not think it would be very appreciable; it would be very quick.

You would expect a man speaking to him to see if that were done?—If he was looking at him, yes.

It looks as if the first wound and the second wound you have described were fired by somebody standing on a level with the constable?—Not necessarily, but it is possible.

Judging from the position of the wounds, and the direction of the wounds, which go from the side of the head, is not the probability that they were caused by somebody standing?—I do not think it is a probability; it is a possibility.

But is not it the more likely position, judging from the position of the wounds?—I do not think I can say that.

Is not this what you would have said: "It does look as if the wound I have first described was fired by some one standing—or standing on something—on the left-hand side of the constable"?—That is a possibility.

You adhere to that?—As a possibility, yes.

I have not considered the question of the deflection of the bullets, because I understand in a case of this kind that would not make any appreciable difference?—No.

Cross-examined by Mr. Powell—Looking at the evidence you gave at the Police Court, did you say this in re-examination in answer to my learned friend, Mr. Roome: "There is nothing in the nature of the first two wounds to make it impossible that they were fired by the driver of the car"?—That is so.

And you definitely say that?—That is possible.

I think you also said this: "The constable would have had to be stooping. He could have got in a position consistent with those wounds being fired by the driver"?—That is so.

By Mr. Justice Avory—When you say "Nothing inconsistent with their being fired by the driver," you mean the driver of the car sitting down?—Yes, sitting down.

Cross-examination continued—And assuming that the police officer came up on the off side of the car and stood by the driver, he would have to bend his head down to sort of look under the hood, would he not?—Yes.

So that he would have to stoop?—Yes, he would have to stoop.

By Mr. Justice Avory—In order to speak to the driver, you mean?—In order to speak to the driver, my lord.

Evidence for Prosecution.

Dr Robert A. Woodhouse

Cross-examination continued—In view of your evidence that one of the first two bullets would cause instantaneous bleeding—having regard to that fact, and assuming the further fact that a bullet was found on the running board by the driver's seat—would that suggest to you that in fact the officer was speaking to the driver at the moment that first shot was fired which caused the instantaneous spurt of the blood?—Yes.

And if Kennedy says it was while the officer was speaking to the driver that he heard the revolver fired, would that be consistent with what you have heard in the case?—That is so.

By Mr. Justice Avory—Are you able to express an opinion as to the position in which the deceased constable was when those wounds were inflicted in the eyes?—It is my opinion that they were fired when he was lying on his back.

You think both those wounds in the eyes were fired as he was lying on his back?—That is my opinion.

Cross-examination continued—We know that two bullets were found in the pool of blood under the constable's head, that one bullet was found in the brain, and one bullet is missing. Which of the bullets through the left cheek would meet with the most resistance in travelling through the face?—The one travelling through the cheek that struck bone. The other did not.

Two bullets were found under the officer on the ground. Assuming that he was shot, two wounds, standing up in the road, would that be inconsistent with this, that one bullet fired through the left cheek got caught up and only fell to the ground when he fell to the ground?—That is a possibility. There is another possibility, that his head fell over and that bullet fell into his cape, or whatever article it came up against, but the other did not strike anything at all and went straight through.

I suggested to the other witness that that bullet might have got caught in the cape even though that bullet was fired when the constable was in the road talking to the driver of the car?—Yes, that is quite possible.

Mrs. Mary Eliza Siddals, examined by Mr. Roome—I live at 33a Sisters Avenue, Lavender Hill. In September last I advertised part of my flat to let. The accused Browne called at my flat. He said that he was called Browne, and that he was a motor engineer and had garages to let. He and his wife took two rooms in my flat, and they moved in on Saturday, 24th September. I noticed that he had a very heavy moustache when he came first of all, and I noticed the next time he had clipped it off. By "the next time" I mean the next time I saw him, which would be a week or ten days after they moved into my flat. It was on Saturday, the 17th of September, that I saw him with a heavy moustache. I saw him between the 17th and the 24th of September when he brought some things on his motor bike. He had

still got a heavy moustache. I cannot tell how many days after the 17th it was; it might have been ten days or a fortnight, or it might not have been so much, I would not be quite sure. The next time I saw him his moustache was close clipped; he was not clean shaven. I think I saw the accused Kennedy once when he called at my flat to see Mrs. Browne. I cannot tell how long after the 24th of September that was; it might have been a fortnight, or it might have been even longer. Browne and his wife occupied the two rooms there until his arrest. I let the rooms to them on the 24th of September, and I went to Devonshire at the end of October. I received the rent fortnightly in advance.

Cross-examined by Mr. Lever—I noticed nothing irregular about their occupation of my house. I thought they were very nice tenants, some of the best.

They occupied the rooms in the ordinary way, sleeping there?—As far as I know, that is quite right.

And you were actually living there till the 24th of October?—Yes; I was in residence all the time till then. I just kept one room to myself, and they had two rooms on the same floor. At least they were only two steps down.

So you would be able to form a very good opinion as to how they were behaving in occupying the two rooms?—Yes.

As I understand, the moustache was never quite shaved off?—No.

But it became less luxuriant; it was cropped?—Yes.

Whether that happened before the 24th or some time afterwards, perhaps you cannot be quite sure?—I remember it was a day or two before the 24th I saw him, either the Friday or the Thursday, with a heavy moustache, and I did not see him again for a little while.

So you cannot be sure when it was the moustache had been cropped?—No.

Did he tell you at the time there had been a lamp explosion which had singed his eyebrows and his moustache?—No; I did not speak to him very much. I did not hear anything about an explosion of a lamp.

By Mr. Justice Avory—They had only one key between them until I left on the 24th of October, and then I gave them a second key.

John Frederick Dyson, examined by the Solicitor-General—I live at 6 Shirbrooke Road, Fulham. In August, 1927, I went as handyman to the Globe garage. The accused Browne engaged me. I stayed until December. During the time from August to the September I saw the accused Kennedy there. As far as I know, he was the clerk. I never saw him drive a car. He slept in the garage. I never went into the inner office. It was always kept shut, as far as I know. When both the accused went out in a car

together the garage was locked up. The keys were not left with me. Kennedy worked in the office. When I went there first Browne had an ordinary full moustache. It was not till about November that I noticed a change; he had shaved it off.

Cross-examined by Mr. Lever—I do not remember saying at the Police Court that it was the end of August or the beginning of September when I noticed the change. I remember asking Browne what he shaved it for, and he told me he had had an accident, and had it burned; he said it was an accident with a spirit lamp which burned part of it off, and he had to finish it off to make himself look respectable. He also told me at the time that he had singed his eyebrows. I noticed that his eyebrows were off. I was at liberty to go anywhere in the yard, but not into the office. The only time I went into the office was when it was empty, to whitewash it before any one lived in it. When Browne was about the garage the office was not locked up. I could have gone in then if I had any business to go in, but I had no business to go in about. Apart from the office there was a workshop. I was working there. I did not notice any tin cases on the bench with files or forceps in them. I know a Mrs. Michael, one of the tenants. She had a small car. I never saw Kennedy drive it. Kennedy slept in the room just at the back of the workshop.

Cross-examined by Mr. Powell—I was the only man working there. There was a little boy between eleven and twelve called Curly Billy, who used to come about the workshop to see what he could pick up. There were no other people coming about the workshop between August and September. I had nothing to do with the clerical duties.

George Townson, examined by Mr. Roome—I am a partner in Townson & Co., motor contractors, Battersea. I garaged one of my vans with Browne at the Globe garage. I have paid my rent to both Browne and Kennedy. I have hired out one of my lorries to Kennedy. It was on a Saturday, but I could not give the month; it was before Christmas of last year. On that occasion Kennedy asked if he could hire a lorry to go to Romford on the following day, the Sunday. I agreed that he could have the lorry. I also saw Browne the same evening. He asked if the lorry had been ordered, and I told him it had. Kennedy told me he would be back by dinner-time. Kennedy also told me that he was going to Romford to look at a car. I do not remember seeing them after it had been returned on the Sunday.

Cross-examined by Mr. Lever—I do not know that Browne hired a lorry to go to Eastham to move his things.

Cyril Albert Dadswell, examined by the Solicitor-General—I am a motor driver, and I live at 32 Harbutt Road, Battersea.

Cyril Albert Dadswell

I drive a van belonging to the last witness. That is the van that he used to garage at the Globe garage. I remember it being hired by Browne for a Sunday, but I cannot fix the date. I have seen Kennedy at the garage when I have been there. I have never seen him drive a car. My van was kept at the Globe garage the whole time I was employed by Mr. Townson. During that time Browne had a medium moustache. He shaved it off, I should say, three months before Christmas, if I can remember right. I will not swear to the date, however. I was engaged by Mr. Townson about the end of August.

About how long was it after your engagement you first noticed the moustache was shaved off?—I cannot fix dates.

Cross-examined by Mr. Lever—The van was painted just before Christmas. Browne had a moustache when he hired the van, but I do not think he had a moustache when the van was painted.

So before the van was painted he had a moustache, and just before Christmas you noticed he had not one, is that right?—Yes.

And then it gradually began to grow again?—Yes. Browne did not tell me that he had had an accident and had it singed. I did not hear that from anybody.

You were about the garage pretty often, were you?—Only to collect the van in the morning and bring it back at night.

Benjamin Stow, examined by Mr. M'Clure—I am a butcher at 66 Bayland Street, Sheffield. I know the accused Browne. I remember buying a car from him in November last. I paid him a sum of money, and in part exchange I gave him an Angus-Sanderson car which had been mine. I next saw that Angus-Sanderson car in the police garage, bearing the number it had on it when I had it, the number being C.W. 3291.

Raymonde le Fevre, examined by Mr. Roome—I am a domestic servant employed by Mr. and Mrs. Pitcher at Bell House, which is on the Southend road, Billericay. Mr. Pitcher has a Raleigh motor car, which he keeps in his garage near his house. I remember the night Police Constable Gutteridge was shot. Mr. Pitcher's car was in the garage that night. The door was not locked with a key, just shut. We do not have a dog in the house, but a dog comes every night round to the dustbin in the garden. Opposite Bell House there is an empty house.

Cross-examined by Mr. Powell—I do not remember the dog coming and barking about eleven o'clock that night. If somebody says he was near the garden about eleven o'clock that night and the dog barked, I expect that would be true.

Evidence for Prosecution.

Thomas George Wilson

THOMAS GEORGE WILSON, examined by the SOLICITOR-GENERAL —I live at a house named Ridgways on the London road at Billericay. It is about eighty paces from Dr. Lovell's house, which is also on the London road. On the night of the 26th or 27th September I was awakened about half-past two by the noise of a car being started up. The noise came from immediately beside my own house, between Dr. Lovell's and my own house. The car went off down the Mountnessing road. I could tell that from the sound.

Cross-examined by Mr. LEVER—Was the starting up a particularly big noise for starting up a light car like that?—Yes.

Starting up as if the man who was starting it was not very well used to it?—I could not say that. I am not an expert.

But it was particularly noisy for starting up a light car?—Yes.

Cross-examined by Mr. POWELL—My house is, roughly, about 100 yards from Dr. Lovell's. I should say the car was being started up midway between Dr. Lovell's house and my house.

WILLIAM ERNEST STEVENS, examined by the SOLICITOR-GENERAL—I am an insurance official, and I live at Barrass, Mountnessing road, Billericay. I remember the night the police constable was murdered. I remember being awakened during the night by a passing car. It was the head light that wakened me up, and I heard the car passing. The Mountnessing road goes off the main Billericay road in a north-westerly direction. The motor car whose head lights woke me would be travelling towards Mountnessing from the main road. It was the light flashing across the window that woke me. My house is perhaps a quarter of a mile from the junction of the Mountnessing road and the London road.

Have you got any idea of what car this was, what sort of a car?—Yes; I recognised it as Dr. Lovell's car.

You recognised the very car?—I recognised the sound of the car.

How were you able to do this?—Well, I was familiar with it. I know Dr. Lovell very well, and I am acquainted with the car. It frequently passes our house, and there is not a lot of traffic on that particular road.

Cross-examined by Mr. LEVER—There is a probability, is there not, if you hear a light car passing, that you might think it probably is Dr. Lovell's car?—Not quite that.

Are you an expert in deciding what a car is from the sound it makes?—No; I am not a motorist even.

There are some hundreds of different makes of cars. Do you pose as being able to tell us you can tell a car from its noise?—

No; but I am satisfied that was Dr. Lovell's car passing without being an expert.

I suggest there is nothing extraordinary or peculiar about the sound of Dr. Lovell's car?—I do not suppose there is, but one gets familiar with a car going past.

Is this what you said before, "There is nothing peculiar about the sound of Dr. Lovell's car"?—I do not think I said that, did I?

You said, "There is nothing peculiar about the sound of Dr. Lovell's car; one is used to the sound of it. I am very familiar with it." When you said there was nothing peculiar about the sound of Dr. Lovell's car did you mean by that that it could not be distinguished from the sound of a similar light car?—No; I meant it was really undefinable; it was a sound you could not define.

An undefinable something about the sound of Dr. Lovell's car; it is the sound of an ordinary Morris-Cowley?—Yes; but cars differ in the sound they make.

But you know those cars are made by massed production, thousands of them?—Yes.

Do you suggest there is something peculiar in the sound of those cars?—It is not for me to suggest anything.

What is that peculiar something which sounds in Dr. Lovell's car?—I said it was undefinable.

Let me put it to you this way: you are sometimes wakened by Dr. Lovell's car passing there, and does it not come to this, that, living in this neighbourhood and hearing a light car pass by, you jump to the conclusion that it is Dr. Lovell's?—Not necessarily.

You cannot tell me what there was beyond that that made you think it was Dr. Lovell's car?—Except that the sound it made impressed it on my mind that it was Dr. Lovell's car. I cannot describe any peculiarity of it.

Is not your evidence absurd? I ask you as a fair-minded man?—I do not think so at all.

And yet you cannot tell me any characteristics of the sound?—I cannot tell you any characteristics of the sound at all. As I have already said, I was awakened by the light of the car. I should say a fair number of cars pass along that road at night. I did not trouble myself about the lights of the passing car, except that I thought the doctor was unlucky in being called out. I went off to sleep at once.

Re-examined by Mr. Roome—Is yours a road where many cars pass at night after you have gone to bed?—No; it is a quiet road, really.

How long have you known Dr. Lovell's car?—The car he has now I think he has had for a year or more.

How many times do you suppose that car has passed your house?—That is really difficult to say. He has night calls,

and he is there in the daytime, and I am not there in the daytime, and do not hear much of it.

Give us some idea. How many days a week do you hear it coming or going?—I suppose I hear it daily, once or twice a day.

And at night?—Not so often.

Have you any doubt in your mind that it was Dr. Lovell's car you heard that night?—I have no doubt at all.

By Mr. Justice Avory—You have not given us any idea of the time? At what time did you go to bed that night?—Some time after midnight.

Had you been to sleep before this incident happened?—Oh, yes; I had been to sleep.

Have you any means of fixing the time approximately?—No means at all. I had been to sleep, but I could not say how long it was.

Albert John M'Dougall, examined by Mr. M'Clure—I am a clerk, and I live at 21 Foxley Road, Brixton. I leave home in the mornings about half-past seven. I go out of our back-door which leads into a little passageway where there are two iron gates before you get to the road. I left on the 27th September as usual by that door. As I came out of my door I found a Morris-Cowley car drawn up within about 4 to 6 inches of my house wall, and within 5 to 6 feet from the gates at the end of the passage. On account of my disability I put my hand on the radiator to get round the car. It was very warm. When I arrived home that evening between a quarter to six and six o'clock the car was still there. I took the number when I came home. It was T.W.6120. I gave the car a rough examination in the evening. I noticed that the near side front mudguard was sheered off from the running board. I reported the matter to a policeman on duty in Brixton Road.

Cross-examined by Mr. Lever—You told us you put your hand on the radiator and found it was very warm?—Yes.

It appeared to you, I think, as if the car had been running up to within half an hour or so of your touching it?—I formed that opinion at the time.

Br. Mr. Justice Avory—Have you any experience of that to go by?—No; it was a very cold morning with a mist, and I could not conceive that it could have been in that condition when I found it if it had been there longer than half an hour. It was a very, very cold morning.

Cross-examination continued—I gather you did not pay much attention to it in the morning; you were probably hurrying to your business?—Yes, that was so. When I came back at night I had a fair look round the car.

You noticed a pump, I think, and a small apple in the car, but you did not notice any cartridge?—No, I did not.

Albert John M'Dougall

And you did not notice any blood on the off side running board or on the machine at all?—No, none whatever. I walked into Brixton Road and found a police constable there. I do not know his name. He came back with me to the car and he gave it a fair look over.

Did he point out any blood to you, or a cartridge, or anything of that sort?—No.

Did you remain there with him afterwards until a detective came?—Yes; the police constable went and telephoned for the detective, and I remained in the passage to see that nobody took the car while he went. The detective also had a good look at the car. It was getting dusk then. He did not point out any blood to me or any cartridge. The detective drove the car away.

Police Constable Alfred Edmonds, examined by Mr. M'Clure—I am police constable 686 of the "W" Division. I was on duty at Brixton at 6.10 on the evening of the 27th September, when M'Dougall, the last witness, came up to me. I went back with him to 21 Foxley Road, and I there saw a Morris-Cowley motor car, T.W.6120.

By Mr. Justice Avory—The passage that has been referred to is a passage that leads off the pavement to the entrance to the previous witness's house. It is not a roadway. In order to get the car into the position in which it was when I saw it it had to be driven over the pavement.

Examination continued—I telephoned to the Brixton Police Station and waited the arrival of Sergeant Hearn. Before he came I just took the number of the car, and opened the door to see if there was anything inside. I did not make an exhaustive search of it. I waited till the sergeant came.

Cross-examined by Mr. Lever—I did not find anything in the car.

Sergeant Charles Hearn, examined by Mr. Roome—I am a detective sergeant of the "W" Division. On the evening of the 27th September, about a quarter to seven, I went to 21 Foxley Road, Brixton, and there in the gravel passageway between 19 and 21 I saw a Morris-Cowley car, the index number being T.W.6120. It was coloured blue. I examined it carefully. I found that the near side mudguard was damaged and bent inwards. I examined the dumb irons, the front springs. I noticed on the nuts of the dumb irons there was some substance which had the appearance of bark of a tree. I scraped some of it off after I drove the car to the police station. At the station I examined it again. Amongst other places I looked under the front seats. I found an empty cartridge case. It was under the near side seat. By the near side seat I mean the front seat on the near side, next the driver. The cartridge case is marked on the cap "R.L.IV." I handed it to Detective Inspector Jones,

and saw it placed in the safe at the police station. The next day I saw it handed to Chief Inspector Berrett.

When you examined the car did you notice anything in the appearance of the running board?—Yes; there were spots and splashes which had the appearance of blood. They were on the left side, by the side of the driving wheel. On the 11th of October I removed the running board and also the near side front wing and packed it carefully in brown paper, and kept it until the 8th February of this year. On that date I took it to St. Mary's Hospital, Paddington, and handed it to Dr. Roche Lynch. I received it back from him on the 11th February. On the first evening when I drove the car to Brixton Police Station, 27th September, I examined the speedometer for the mileage. The total mileage recorded was 65484.3. On the 11th October the mileage was the same. The car had not been used. I drove it on the 11th October to Billericay, passing through Abridge and Stapleford Abbotts. I drove it by the spot where the constable had been murdered, with Chief Inspector Berrett. I stopped at Dr. Lovell's house. The mileage added on was 36.8 miles.

Cross-examined by Mr. Lever—When I drove the car from Foxley Road to Brixton Police Station I drove it into the station yard. I then sent an officer into the station for an electric torch, as it was dark. When he brought the torch I then examined it. It was Detective Hawkyard who brought the torch. He assisted me to examine it. He was present when the cartridge was found. As we lifted up the seat Detective Hawkyard picked up the cartridge and handed it to me. I handed it to Inspector Jones, who came down into the yard. I found that the car actually belonged to Dr. Lovell when I got back to Brixton Police Station. It had been damaged.

How is it that this board was not submitted to the expert until February?—I was acting under instructions with regard to that. It was kept in the office at the police station from the time I took it off the car.

Could you tell whether the blood was fresh or not at the time you examined it yourself?—I could not say it was damp or anything like that—just ordinary spots of blood.

I suppose you thought it was not pressing to send it to the expert?—I would not say that; I was acting under instructions.

Under whose instructions?—Chief Inspector Berrett's.

But you yourself could not detect any dampness of the blood at the time?—No.

By Mr. Justice Avory—You did not see it till the evening?—No.

Cross-examination continued—The cartridge case was handed to Chief Inspector Berrett, but what was done with it after that?—I could not say.

The Court adjourned.

Second Day—Tuesday, 24th April, 1928.

JOHN MILLER, examined by Mr. ROOME—I am a detective sergeant of the "W" Division. On the 20th January of this year I was keeping observation on the Globe garage at 7a Northcote Road, Battersea. At ten minutes to eight in the evening of that day I saw a grey car, an Angus-Sanderson make, C.W.3291, drive into the entrance to the garage. The driver of the car was the accused Browne. He was dressed in a chauffeur's uniform —a blue coat and peaked cap. A few minutes later I entered the inner office belonging to the garage with Inspector Barker, and I was present when Inspector Barker arrested Browne and searched him. Later that evening I, along with Mrs. Browne, Detective Sergeant Foley, and Detective Haines, went to 33a Sisters Avenue, and went to a back bed-sitting-room on the first floor. In that room I found in a right-hand top drawer a small nickel-plated revolver. It had cartridges in it. It holds six cartridges.

By Mr. Justice AVORY—By whom was that room pointed out to you?—Mrs. Browne.

Examination continued—I produce the cartridges which were in the revolver. There are six cartridges altogether. I also produce a black leather holster in which there was one loose cartridge. The cartridge I found in the holster was a live cartridge. After finding these things I returned to the garage, and later on we took the accused Browne to Tooting Police Station. It would be about half-past ten or a quarter to eleven when we took him to the police station.

At the police station did you show Browne the nickel-plated revolver?—Yes; I took it out of my pocket, and laid it on the charge-room table, where Browne was sitting beside me and Detective Hawkyard.

Did Browne say anything when he saw the revolver?—Yes; Browne said, "Oh, you've found that, have you? That's no good; it would only tickle you unless it hit you in a vital part. If you had stopped me when I was in the car I should have shot five of you and saved the other one for myself." About a minute later he said, "What I can see of it, I shall have to have a machine gun for you bastards next time."

By Mr. Justice AVORY—Do you mean a few minutes after?—Just about perhaps half a minute.

Cross-examined by Mr. LEVER—I see you are refreshing your memory from a note that you made in the course of your duty, no doubt. Could you tell me exactly when it was you made the note?—About five or ten minutes afterwards at Tooting Police Station.

Where was the accused then? Had he been taken away?—No; he was in the charge room. I made the note on the desk in the charge room.

I see, judging from your evidence, it purports only to record the remarks that the accused made, not the remarks made by anybody else?—That is all; nothing was said by myself.

I was going to inquire about that. Am I to take it this was really an entirely one-sided conversation?—Yes.

How many officers would there be in the room at the time?—At that time there was Detective Hawkyard and myself.

While you were at Tooting Police Station only you two were in the charge room?—Yes, at that particular time; there were several in and out.

Am I really to infer that everybody was quite mum, said not a word?—There were only two of us there when that happened.

And that neither of you said anything at all?—No.

I do not suggest that anything wrong was said by any of you, but there was a man who was making observations. Did not you say anything at all?—No.

I am not challenging very substantially what you say, but I suppose you have got down there in substance what you can remember. You do not perhaps suggest that every word is exactly as he said them, do you?—I do in this particular case, yes.

I am putting it to you that something of that kind is the substance; it is not very material?—No.

Just try to help me out. If you can, I am sure you will. When you produced that little revolver was not there some laughing?—No.

I put it to you there was a bit of talking about it, and in the course of it my client did say, "Well, that would only tickle you." Was that the way it occurred?—No; no laughing at all.

At that time there had been no charge made against him of shooting anybody?—No; not a suggestion.

Of course, my client did not make a note, as you can understand, but this is what I suggest occurred, namely, that the first thing was, as I have suggested to you, the little revolver, and then one of the officers said, "What would you have done, Browne, if we had tried to get you in the car?"—No.

You do not remember that being said, at any rate, in your presence?—No. I was in charge of Browne until such time as he was removed to the cells, and that conversation never took place.

You did not hear Browne then say, "I do not know what I should have done; I have never been put to the test"?—No.

Did you at any time hear any of the officers say this, "A good thing you are not put to the test, as there would be very little of you left," or something of that kind. "We can use guns as well as you can?"—No.

Did you hear him say, "Why all this precaution?"—I heard

him say that at the garage. He asked to go to the lavatory, and he was accompanied by about four officers, including myself, and he said, " Why all this precaution? I have never seen so many officers before in my life."

Were there a good many officers besides the four? There were quite a lot of them about?—About ten to a dozen about that time.

Did he not add, " Why bring all that lot to pinch me? "—No; he did not.

Did he not say anything further than " I have never seen so many police officers." Did he say, " Good heavens! do you think I am superhuman "?—No.

And then did he say, " It would take a machine gun to fight a lot like you "?—No; the first I heard of the machine gun was at Tooting Police Station.

You did not hear anything said at the garage about a machine gun?—No.

Did he at the police station say it would take a machine gun to fight such a lot of you?—No; what he did say was, " I shall have to have a machine gun for you bastards next time."

I have put to you what he suggests he said, and that he said nothing more than I have put to you. You do not agree with that?—No.

Re-examined by the Solicitor-General—Is that revolver only a toy or is it an effective weapon?—An effective weapon. In fact, I know of a case where a taxi driver was killed by the same calibre bullet.

William Barker, examined by the Solicitor-General—I am a detective inspector of the " W " Division. At eight o'clock on the 20th of January I went with the other officers to arrest the accused Browne. I actually effected the arrest. I did not see him get out of the Angus-Sanderson car, but I saw the car in the yard.

Where did you go to arrest him?—Into a workshop on the left-hand side of the entrance, and it was in a room behind that workshop where I saw him and arrested him on a charge which has not been pursued, namely, of stealing a Vauxhall car from Franciscan Road, Tooting, in November, 1927.

What did he say in answer to that?—" What do I know about stealing the car? "

Just to dispose of that, he has always denied the stealing of that car, and the charge has not been pursued?—He has denied it, yes. I cautioned him after he said, " What do I know about stealing the car? " Detective Inspector Leach arrived about half-past eight, and Browne was ordered to be searched. When he was told he would be searched he asked if he could go to the lavatory first, but I searched him before he was allowed to do so. In his

Browne's Stockingette Mask.
(Worn by a member of the C.I.D., New Scotland Yard.)

waistcoat pocket I found the motor driving licence, in the name of Frederick Eric Harris, 176 Shandon Road, Clapham, South-West, issued on the 25th November, 1927. I found the artery forceps in his left-hand waistcoat pocket with a skeleton key shank.

Did he say anything about the artery forceps?—He said, "Oh! they are useful." I said, "Where did you get them from?" He said, "I have had them a long time; I do not know where I got them." In the back hip pocket of his trousers I found twelve cartridges. They were .45 cartridges, such as are fired from Webley revolvers.

Did he say anything with regard to them?—Yes. He said, "That's done it; now you've found them, it's all up with me."

You have told us that the only charge that had been mentioned was this charge of stealing a car?—That is so.

Had anything been said by way of suggestion or hint about any crime of violence?—Nothing whatever.

Did you find something in his right-hand jacket pocket?—Yes; a stockinette mask which draws over the head, with apertures for the eyes, ears, and mouth.[1]

What did Browne say when you found that?—"There you are, you've got it now, that's the lot; you won't find anything else." I also found some money on his person, but nothing that I considered worth making an exhibit. At that moment Detective Bevis came to us from the yard, and spoke to Inspector Leach in my hearing. Bevis was holding a Webley revolver in one hand and six cartridges in the other. They are the same as the other cartridges I have just referred to. They are flat-nosed bullets.

As Bevis brought in the revolver in one hand, and the cartridges in the other, what did he say?—He said, "I just found this fully loaded in the offside pocket by the driver's seat in the Angus-Sanderson car outside." Browne looked at it, and said, "Ah! you've found that, have you; I am done for now."

Again I want to ask you up to that moment had there been any hint of a charge of murder?—Nothing whatever. He was then allowed to go to the lavatory, and on his return he was told that his house would be searched. He said, "If you are going to search my rooms I want my wife to be present, but you won't find anything there." Mrs. Browne was allowed to go with the party to conduct that search. I remained with Browne. After the party had left Browne said that the Vauxhall car had been honestly come by. He said, "Well, you cannot prove I stole it," meaning the Vauxhall. "I did sell it, and had the Angus-Sanderson car I have just got out of in part exchange." I then searched the inner room of the office in Browne's presence, and found the sixteen cartridges. That was the room in which I arrested him. These cartridges would also fit a Webley revolver.

[1] The handiwork of Mrs. Browne. See opposite page.

They are of three different marks. The cartridges were wrapped in some white paper, loosely wrapped in the paper. Then I found some medical appliances. I found a pair of dissecting forceps on the first shelf of the dresser. There was a roll of bandage, which I found on the dresser shelf. There was an ethyl-chloride spray. Lastly, a large roll of lint, which I found in the drawer of an iron safe, which was lying on the floor. It consists of two rolls of bandages, a piece of bandage, a roll of white gauze, and a piece of lint.

Cross-examined by Mr. LEVER—Just one word about the statement made about the Angus-Sanderson car. You told us something that was said about it, but I think, in addition to what he said, he also said that he had paid a fair price for the car?—That is so, yes.

And that charge, as we understand, has been dropped. Now, this inner room of the office, is that a sort of living-room with a bed in it?—Yes.

Was there a bed in any other room of the garage?—No; there was no other room in the garage. That was the only bed I saw. The sixteen cartridges found in the inner room were found on a shelf of the dresser. They were not locked up at all.

That, as I understand, contains a mixed lot of cartridges?—Yes. I am informed it contains three different lots. There are some Mark IV, some III, and some Mark Eley. Whether they are black powder or cordite I do not know.

You have told us you went to the garage simply to arrest this man on a charge of selling a car?—I did.

You had not gone there in connection with any alleged murder at all?—No; solely to arrest him for stealing a Vauxhall car.

And there was not, in fact, a word said about the Gutteridge murder on that occasion?—Nothing whatever was said.

When you found the firearms do I understand Browne said "Well, that's done it" when the first revolver was produced?—When it was shown to him.

You know it is an offence to be in possession of firearms without a licence, is it not?—Yes.

And Browne had no licence, had he?—He never produced one to me; I never asked him.

As far as you are aware, you are not aware of his having any licence?—I do not believe he had a licence.

So that the finding of the firearms in his possession and without a licence would in itself constitute a criminal offence?—Yes, but not a serious one.

It would make one liable in itself to arrest, would it not?—No.

In a charge of having firearms without a licence, you have no power to arrest for that?—Unless the person refuses his name and address, or we think he will abscond.

At any rate, you found there the firearms, and your belief

is that he had no licence, so that his observation that he was done for would, at any rate, clearly relate to a charge of that kind; he was done for so far as a charge of that kind was concerned, was he not?—I cannot say what he had in his mind.

At the time when he was arrested did he appear to be calm and collected?—He seemed to be boiling inwardly, holding himself in.

He did not manifest any outward signs of excitement, did he?—To some extent he did.

What were the signs?—He went pale and gripped his hands tightly together as though he was trying to master his feelings; but, apart from that, nothing else.

Was he, in fact, making cocoa in that inner room?—No.

And drinking it?—No.

Are you quite sure about that?—Not at the time I arrested him.

After the discussion had taken place did he not drink some cocoa?—I am informed he did, but he did not do so in my presence.

With regard to these things that you found, there apparently was no effort to conceal them at all, was there?—One would have to go into the garage and into the inner room through a workshop to see them.

But they were not locked up, were they?—Not in the actual room itself.

They were not locked up at all: there was not one of these things under lock and key, was there?—Not so far as the actual room was concerned.

By Mr. Justice Avory—Had the door a lock to it?—The garage had double gates across the entrance to it, and the door of the workshop bears a padlock, rather a substantial one, but the door of the inner one does not.

Cross-examination continued—But you walked into the garage, did you not, without any difficulty?—I did.

The gates were not locked?—They were not.

Nor was the door of the workshop nor the inner room locked?—No.

So that there really was no effort to keep these from being observed by anybody who was coming into the garage and into the room?—No; anybody going into that inner room would see.

Cross-examined by Mr. Powell—I understand you found the inner room quite open when you walked in?—Yes.

Am I right in saying there was no lock upon it?—As far as my memory serves me, I do not think there was a lock. It seemed to be a temporary arrangement, the door.

Frank Bevis, examined by the Solicitor-General—I am a detective of the "W" Division. I was one of the party who

went to effect Browne's arrest on the 20th of January. While the others were in the office I searched the Angus-Sanderson car. It was I who found the revolver and the cartridges. I found them in a pocket on the off side of the car, the side of the driver's seat. The cartridges were in the revolver. The pocket to which I refer is more or less an open pouch into which the right hand can be easily placed. There is a small flap over the pocket, but that was folded inside, and you had only to put your hand straight into the pocket and take out the revolver. The butt of the revolver was upwards. There was nothing else in the pocket to prevent the revolver being readily drawn if a man put his hand in. I also found the forceps. They were in a canvas bag underneath the revolver, together with several skeleton keys and a wooden wedge. I took the revolver straight inside into the office. I had taken the cartridges out for safety. I heard Browne make the remark, "Ah! you've found that, have you; I'm done for now." I went as one of the party to search at 33a Sisters Avenue. We were accompanied by Mrs. Browne.

I want you to tell us what you found there?—At 11.30 p.m. I found in the top left-hand drawer of the living-room of Mrs. Browne's rooms twenty-four .22 cartridges wrapped in a handkerchief. .22 is much smaller than service ammunition. These cartridges fit a small nickel-plated revolver, which was found by another officer. That was all I found in the house. There were other officers searching at the house. The next morning I made a further search in the Angus-Sanderson car at the garage in Northcote Road, and found another Webley service revolver behind a panel at the rear of the driver's seat. There were six service cartridges in the revolver. There were three different marks in those six. The revolver was in a small cupboard which is covered by a panel right at the back of the driver's seat. It could be got at by turning round in the driver's seat and leaning over into the back of the car.

Was it quite obvious, or had you to search for it?—I had to search for it. The panel is not very obvious at all.

And has it got to be opened in some way before you can get at the revolver?—Yes; there are two small locks which fasten the panel, but they are not noticeable. The panel is let right into the back of the seat.

By Mr. Justice Avory—When you say locked do you mean they have to be unlocked with a key?—Yes.

And did you unlock them with a key?—No.

How did you open them?—With a screwdriver, forced it.

Examination continued—At any rate, for any one to get at it, whether it was the driver or not, it would take a certain amount of undoing?—Quite a lot.

Cross-examined by Mr. Lever—About this little conversation, this remark that Browne made about being done for, how long

after the interview was it that you made your notes?—About ten minutes or a quarter of an hour.

Did you compare it with any one else's notes?—No.

You see, I find that Inspector Barker has exactly the same words. Are these the words, "Ah! you've found that, have you; I'm done for now." Is that right? Just tell me from your memory?—"Ah! you've found that, have you; I'm done for now," were his words.

Did you check the two statements?—I have not done so.

Did Inspector Barker in your presence check the two statements?—No.

It simply happens to be chance, does it?—They were the actual words used.

You remembered each of those words, even the "Ah! you've found that," actually until you put them down about a quarter of an hour after?—Yes. I made a note of the time when we went to the house at 33a Sisters Avenue. My note is that it was 11.30 p.m. That note was made at about ten minutes or a quarter to twelve.

Were you with Mrs. Browne?—I conveyed Mrs. Browne and the other officers by car in the first instance to her house, but I did not enter on that occasion.

I made a note here of what you said, that you went in a car?—I conveyed Mrs. Browne by car with other officers on an earlier occasion to the house, and it was the second time that I went to the house that I found these cartridges. 11.30 was the second time. The first time was somewhere about a quarter past ten. I did not enter on the first occasion.

Mr. Powell—No questions.

Albert Haines, examined by Mr. Roome—I am a detective of the "W" Division. On the 20th of January, at about nine o'clock in the evening, I went with Sergeants Miller and Foley and Mrs. Browne to 33a Sisters Avenue, and searched a living-room on the first floor. I found the revolver in the leather case. I found it on the top of the wardrobe cupboard. It is a Smith & Wesson service revolver. It was fully loaded with six cartridges. They are all Mark IV, flat nosed. In the same place where I found the revolver I also found eleven loose Mark IV cartridges. I also found two packages of similar cartridges. One of the packages was unopened. Altogether there are twenty-three cartridges in those two packets. In the bottom of the wardrobe I found a convex lens. During the whole time I was searching and finding those articles Mrs. Browne was present. The following morning I went to the Globe garage, and I found on the bench in the workshop the metal case. There were four small files in it when I found it.

Cross-examined by Mr. Lever—This case could be easily

seen from the yard, could it not? From the open yard there you could see into that workshop. There is a big window in the plan, I see?—You could from the door; from the entrance to the office you could see in there.

And that workshop is before you come to the living-room at all?—It is. You go through the workshop to the living-room.

And that case that you have told us of was on the bench which could be seen really before entering into the workshop?—No; not before entering the workshop, before entering the living-room.

Which bench was it on? There are two benches there?—The bench on the left-hand side before going into the living-room or the office.

On the left-hand side as you go towards the living-room?—Yes.

That bench is close to the back window in the yard?—I do not remember a window.

Mr. Powell—No questions.

John Harris, examined by Mr. M'Clure—I am a detective sergeant at New Scotland Yard. On the 20th of January, at five minutes before midnight, I went to 33a Sisters Avenue. Mrs. Browne was there. I searched the room in which she was. I found an ear speculum attached to a Sancy light. I found these in the top right-hand drawer of a chest of drawers. In the same room on the mantelpiece I found a roll of plaster. It has been partly used. It is the ordinary type of adhesive plaster. On the 9th February I went from the address in Brixton, 21 Foxley Road, to Billericay, to Dr. Lovell's house. It was a test drive with regard to the mileage from this place to the doctor's house. It was the place where the car was left. On the first journey we went by the main road passing through Romford and Brentford, turning off at Shenfield. That is the most direct route we could discover going by main roads. The mileage was exactly 27 miles. Before we made the return journey we set the speedometer at zero, and returned to the place we had started from by quite another route. On that occasion we went down the Mountnessing road past the spot where Gutteridge's body was found, and thence to Abridge, Chigwell, Woodford, and Buckhurst Hill to Stratford, and we there rejoined the main road and travelled the same route as before, continuing to Aldgate and the Elephant and Castle to 21 Foxley Road. When we stopped at Foxley Road the mileage was 42.1 miles. Then there was 1.2 on to the Brixton Police Station to complete the journey where Dr. Lovell took his speedometer. That made a total of 43.3 for the total journey. On the same day, the 9th February, I tested by going different routes the distance, and the way of getting from Foxley Road to Browne's garage. The distance varied between 3.8 and 4.1 miles. I travelled over four

different routes. These distances were done by car in order to get the approximate mileage. On the 10th February, at 5.30 in the morning, I went again from 21 Foxley Road to Browne's garage, both walking and taking trams. Starting at 5.30 in the morning I walked to Kennington Oval from Foxley Road. I then got on a car as far as the Plough, Clapham Common, where I changed, and then took another tram to Clapham Junction, where I dismounted and then walked to the garage. I arrived at the garage at two minutes past six, it having taken me thirty-two minutes.

Mr. LEVER—No questions.

Cross-examined by Mr. POWELL—Was the object of the tests to check the statements made in Kennedy's statement to see if they were approximately true?—I should think so. I was told to do that.

Having compared your results with your statement, it transpires that your experience corroborates what he says. Is that the case?—Practically. He said half an hour, and I made it thirty-two minutes in one instance.

Mr. POWELL—Now, my lord, I must ask this witness some questions about matters as to which he has given no evidence, but as to which Inspector Berrett only has given evidence, and I would like Inspector Berrett not to be in Court whilst I am asking Sergeant Harris these questions. I was asked if I had any objection up to this point, and I had no objection.

Mr. Justice AVORY—Very well, he is leaving the Court now.

Mr. POWELL—It is as to Kennedy's written statement, which, as your lordship knows, I have not objected to. (*To Witness*)—Did you actually write the statement that Kennedy made at Scotland Yard on the 26th January?—Yes.

Was this the position, that you sat at the table with pen and ink?—Yes. Kennedy was sitting at the table also. Inspector Berrett moved about.

The position was that Inspector Berrett and yourself were wanting very naturally, as police officers, to find out who had murdered P.C. Gutteridge?—That is natural.

That was the state of mind of both of you, and you would, no doubt, I suppose, consider it your duty in the public interest to ask any questions which might elucidate information about the matter?—Oh, no, I cannot go quite as far as that. I would not ask any questions.

You know that this statement that you wrote down is divided up into a number of paragraphs?—Certainly.

Each paragraph deals with a specific subject?—I do not think so. Since it was put in Court I have not seen the statement.

Who decided when a new paragraph was to be commenced?—My own common sense. I have taken thousands of statements since I have been in the police.

Until he began to make each part of the statement you would not know it was to be a new subject-matter, would you?—Well, I have a certain amount of common sense, surely, and I knew the events that had happened, having been engaged with Chief Inspector Berrett since the 27th September on the inquiry.

Do not think that I am going to suggest to you or to Inspector Berrett that either of you said or intended to do anything that was wrong. I do not suggest that for one moment?—Thank you, sir.

I want to put my instructions to you. You do not suggest that no question at all was put to Kennedy, do you, before he made any written statement?—He was told that Chief Inspector Berrett was making inquiries.

By Chief Inspector Berrett?—Certainly. He was told why he was brought there.

Did Chief Inspector Berrett ask him to give any information he could?—He said, "Can you give me any information?"

That is a question, is it not, obviously?—I have a note of what I took down.

I am accepting what is down in the written statement, which says, "I have been asked if I can give any information respecting it"; so he was asked, was he not?—That is so, as regards that, yes.

The reason I am putting this question to you is that it has been made a matter of complaint against Kennedy that his statement is not full enough, and does not explain certain matters, say, what happened. Then when he had signed what I may call the preamble, which finishes, "I wish voluntarily to tell you what I know about the matter"—I am not suggesting it was not a voluntary statement, I quite agree it was—"having been cautioned that what I do say will be taken down in writing and may be given in evidence," he signed that?—That is so.

And then he starts off with what I may call the general story?—Yes.

Was he asked how it was he came to go to Browne's place at all?—No.

Was he asked if he had received a letter from Browne?—No; the letter was shown to him at the end of the statement.

At the moment he referred to the letter he did not know that you and Inspector Berrett had the letter, did he?—I should not think so.

I mean you never produced it to him then. He referred to this letter without knowing that you had got it?—That is so.

Mr. Justice Avory—You see his own statement here is "which letter I have destroyed," or something else.

Cross-examination continued—Or handed it to some one in Liverpool. He was under the impression when he wrote that that the letter could not be traced?—That is right.

Being under that impression he purports to set out a summary of the letter?—Yes.

Later on the letter was produced to him. Would it be fair to him to say that, without knowing you had got the letter, in describing the contents of it he described it accurately?—I should say so.

So that it is quite clear that in stating the contents of the letter, believing it was destroyed, and could not be found, he was speaking the truth?—Absolutely.

Was he not asked what happened after getting the letter? I mean, the sort of question I suggest Inspector Berrett put to him was, "Well, what happened after that?"—No.

Then when he stopped again another question would be put, "What next," and that sort of thing?—No.

Then he describes in the second paragraph how he came to London and went to Browne's garage?—Yes.

He sets out his duties. I need not go through it paragraph by paragraph, but what I suggest is that when one topic was finished he was then asked, "What happened then?" or "Where did you go then?" or words to that effect?—No; that is not quite right, because when he had finished, what he used to do was, he would stop and think, or he sometimes asked me to read over what had been taken down, and I used to do so.

Perfectly properly.—On other occasions I had to ask him perhaps to slow up—I should think once or twice—and then after I had read what had been written down I would say, "Is that right?" but beyond that not a question. That is the only sort of question that was asked. Beyond that nothing else was spoken to him; he watched my pen.

It is a very orderly statement for a man who is in a serious position?[2]—He is an orderly man: a man of education.

Even though he was in the grave position he was in, the whole matter is in chronological order. It deals with all the questions that you police officers would naturally want to know in the interests of justice, does it not?—Absolutely.

And has got nothing that is irrelevant, or nothing that is idle in it; it is all to the point?—Yes.

Every question you could have desired to have answered is answered?—No.

Every question about the murder?—Yes; I suppose so, about the actual murder.

Do you really say——

By Mr. Justice Avory—Stop a moment. Are you saying that every question was put to him?—No.

With regard to the murder?—Oh, no.

[2] It is more than likely that Kennedy had carefully thought out the story he meant to tell. Also, as for the most part, he was giving a narrative of what did take place, why should not his statement be orderly?

John Harris

That is what learned counsel asked?—I understood learned counsel to say that every question we could have desired was answered.

Mr. POWELL—Yes; I did not put it that every question was put to him; what I was suggesting was that it happened to be the fact that the statement is exhaustive of material matters about the murder.

The WITNESS—Yes.

Mr. Justice AVORY—That may be a matter of opinion.

Mr. POWELL—Yes; I agree respectfully.

The SOLICITOR-GENERAL—I wonder if my friend would make it clear before he goes on whether he was suggesting that questions were put elucidating this information?

Cross-examination continued—I am not taking objection to the statement—I am not seeking or asking for the statement to be ruled out—but what I am suggesting is that as paragraph after paragraph was recorded by you, if he stopped and seemed to have no more to say, then the sort of question would be put to him, "What next?" "What happened then?" and that sort of thing? "Did you see any revolver?" and that sort of question?—No.

In this statement in one paragraph he tells the story about a dog coming out to bark on the night of the crime. "A dog came out, and, starting to bark, it made Browne leave and join me, and he said——"

By the SOLICITOR-GENERAL—It is the passage beginning "Browne told me to wait in the grounds of an empty house"?—I think that is it.

Cross-examination continued—He had no knowledge then from the police, had he, that evidence was going to be called that a dog did come out and bark?—At that time the police had no knowledge.

And it now turns out he made a true statement about that?—Absolutely.

One other thing I just want to put to you: before he made this statement his wife was called into the room?—Yes.

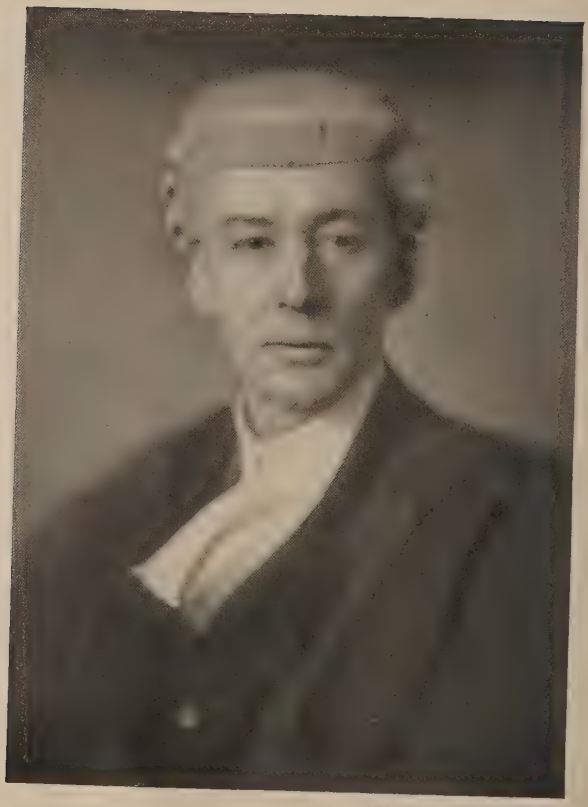
And you were able to see the state of affairs that existed between Kennedy and his wife?—Yes; they seemed very fond of each other.

And would you agree with me it was his wife who urged him to tell the truth?—She told him to; whether he required that urging or not, of course, I do not know.

Quite right. Do you know that they had only been married then about eight days?—The 18th January—that is right.

Did it not appear to you from what you observed in the room that he was very much under the influence of his wife?—I have held that opinion ever since.

And seemed, so far as you could judge, to be writing the statement at the request of his wife?—Well, I do not think I can answer that.



[*Photo. by Walter Thomas.*

Mr. H. D. Roome.

Evidence for Prosecution.

Harold Hawkyard, examined by Mr. Roome—I am a detective officer of "W" Division. On the 20th January of this year I was present when Inspector Barker searched the accused.

When the cartridges were found in Browne's hip pocket what did he say?—He said, "That's done it; now you have found them, it's all up with me."

When the mask was found did he say anything?—Yes; he said, "There you are, you have got the lot now; you won't find anything else."

By Mr. Justice Avory—Did you yourself make the note at the time?—Not at the time.

How soon after?—At Tooting Police Station.

Examination continued—How long after?—About ten o'clock or just after ten. It would be about two hours afterwards. I was present when Detective Bevis came in with a Webley revolver and six cartridges.

When Browne saw those, what did he say?—"Ah! now you've found that, I'm done for."

About nine o'clock the same evening were you standing beside Browne in the garage?—I was.

Did he say anything then that you heard?—Yes; he said, "How many of you were there? All you lot to pinch me! It's a good job you did not collar me when I was in the car or some of you would have gone west, and me after you. I have seen a man shoot six down with a gun like that, and you can take it from me they didn't get up." I was present later the same evening at Tooting Police Station when the small nickel-plated revolver was placed on the table in Browne's presence.

Did Browne say anything then in your hearing?—Yes; he said, "Oh! you've found that; that's no good. It would only tickle you unless it hit you in a vital part. If you had stopped me in the car I would have shot five of you and saved one for myself."

Did you hear Browne say anything else?—Yes; shortly afterwards he said, "What I can see of it I shall have to get a machine gun for you bastards next time."

Cross-examined by Mr. Lever—You have told us that you made this note at about ten o'clock?—Yes.

The words were actually spoken shortly after eight o'clock?—Yes.

So there is practically two hours' interval between your making the note that you are refreshing your memory from and the time the words were spoken?—That is so.

We will take the first statement when the cartridges were found: "That's done it; now you've found them, it's all up with me." Are you aware that word for word with every shortening of each word and every exclamation, verbatim, your account is exactly the same as Inspector Barker's?—I did not know that.

Harold Hawkyard

You took your note two hours afterwards?—Yes.

Do you really wish the Court to believe that you remembered every little word of that sentence, and so wrote it down as to be exactly the same two hours later?—That is what I remembered that he said when the cartridges were shown to him.

I do not wish in the slightest to complain, but is there not some sort of explanation of that except your wonderful memory?—No; I do not think so.

Now, we will take the next. When did you make the note when the Webley and the cartridges were produced and Browne made another exclamation?—I made that at Tooting Police Station at the same time.

There, you know, you have got exactly the same as Barker word for word. "Ah; now you've found that, I'm done for"—every word the same. Do you really say again this was merely a record of your memory?—That is what I remembered he said.

Is there not any other explanation? I want to put it to you quite frankly—I am not saying for any unlawful purpose—but did not you see Barker's notebook or anything of that kind?—No; I never saw it at all.

Did you not check it with anything?—No.

You have got a wonderful memory?—I do not think so.

What was the first question that my learned friend asked you to-day?—He said, "Your name is Harold Hawkyard."

Yes, that is very good; that is quite excellent. After getting your name, what did he say to you first?—He asked me if I was present when Inspector Barker searched the accused Browne at the garage.

And what?—When he found the cartridges.

He asked you if you found the cartridges?—No; he asked me if I was present when Inspector Barker found the cartridges.

And what was the next question after that?—He said, "What did Browne say when the cartridges were shown to him?"

Let me put to you a further question. When back in Tooting Police Station, who was present at the charge room besides Browne and yourself when the conversation took place about the machine gun, and so on?—Sergeant Miller.

Was there any one else present except you and Sergeant Miller?—I do not remember. There may have been one or two walking through, but I think Sergeant Miller and I were with Browne most of the time.

Was there anybody else actually remaining in the room except you and Sergeant Miller?—I do not think so.

And were you there during the whole time the statement was made?—Yes.

The Solicitor-General—Before my friend pursues his cross-examination, I wish to correct him. He has told the jury that the words this witness used were word for word the same as were

used by the other witness even to the exclamation. The two statements are this: Barker said, "Ah! you've found that, have you; I'm done for now." This witness said, "Ah! now you've found that, I'm done for."

Mr. Justice AVORY—That is in accordance with my note.

Mr. LEVER—I accept that, of course, but I thought it was verbatim the same. We have got the evidence also of Bevis, of course, about that, and my recollection at present is that Bevis and this man are verbatim the same. Barker and Bevis, according to my recollection, are exactly the same.

Mr. Justice AVORY—Yes, they are.

Mr. LEVER (*to Witness*)—You say, "Ah! now you've found that," whereas Barker and Bevis both say in the same words as each other, "Ah! you've found that now, have you"; and then you say, "I'm done for," and they say, "I'm done for now." I put it as a very remarkable coincidence that in the first place you are exactly the same as Barker, and the same exclamation word for word, and in the second place, with one or two slight alterations, exactly the same. Is that really your memory, or is it that you have in some way talked it over—I do not mean wrongly?—No; I made these notes at Tooting Police Station as soon as I got back.

Let us get to Tooting Police Station, when you say that you and Miller were present when that was said about the machine gun. Is this what you say he said, "What I can see of it, I shall have to get a machine gun for you bastards next time"?—Yes.

That is, with the exception of one word, verbatim the same as Miller has got. You see Miller has got, "What I can see of it, I shall have to have a machine gun for you bastards next time." You say, "What I can see of it I shall have to get a machine gun for you bastards next time." There is only the one word "have" instead of "get" which is different in all that sentence. Is that again merely the wonderful recollection of you two?—That is what I remembered he said.

You were with Miller in the room when this was said at the Tooting Police Station?—Yes.

Did you see Miller make his note of the conversation?—No. I saw him writing something at Tooting Police Station in his notebook. I had not my notebook out then. I wrote mine afterwards in the police station. I think Miller was still there with the accused when I wrote mine.

First he wrote his note in the police station, and then you wrote your note?—I do not know that he wrote his first; I saw him writing something.

And did he finish, and then you began to write yours, or what?—No.

Did you begin to write whilst he was writing?—No.

Were you writing it before he had written, or what?—I do not know. I was writing something there in the early part of the evening just after I got there.

After this conversation you were recording it?—I recorded it.

You have told me in the charge room you saw Miller writing something in his notebook?—Yes; he was writing something.

Was it then that you started writing in your notebook?—No.

Was it after he had finished?—Some time after, I think.

But was he still there, or not?—He was still there, yes.

So that you were both writing notes in your notebooks in the same room. He finished his first and then you started yours. Why did you wait till he had finished his before you started yours?—I do not know.

Did you have a look at what he had written?—No.

Did you mention it to him?—I did not, no.

There you were, both of you, sitting quite silent in the same room recording conversations, and they are verbatim the same?—I did not know what he was writing.

You have told us that when you were standing in the garage with Browne about nine o'clock Browne said, "How many of you were there"?—Yes.

Miller has said the same thing. Then you say he went on to say, "All you lot to pinch me"?—Yes.

That is correct, is it not?—Yes.

I put it to Miller and he told me that was not said—"All you lot to pinch me!"—but you say it was?—He said that to me.

Mr. Justice Avory—Now you are finding fault with him for differing from Miller.

Mr. Lever—Yes; he possesses both faults, not unnaturally. The object of my cross-examination is to show that there is no infallibility in these verbatim records. I say no more than that, and I am not casting any blame on anybody; I am saying what their value is.

Mr. Powell—No questions.

Dr. Gerald Roche Lynch, examined by the Solicitor-General—I am Senior Official Analyst to the Home Office. On the 8th February I received the offside running board of Dr. Lovell's car. I tested three places on that running board for human blood, and I found human blood to be present. The blood-stained areas are on the rubber which I have outlined in blue pencil, and in addition I found human blood on the white metal skirting somewhere about the middle of the board. There is a great deal more blood, but I tested only three spots which I am sure were all human blood.

Dr. Edward Richardson Lovell, examined by the Solicitor-General—I reside and am in practice at Billericay. I am the owner of the blue Morris-Cowley car, T.W.6120. My garage is

just alongside the house. I personally put away my Morris-Cowley car in that garage on the evening of the 26th September. I identified my car at the police station, Brixton. I put the car away about 7.30 on Monday night, the 26th September, and I locked the door in the usual way. I did not have any occasion to take it out again that night. I left cases containing surgical instruments and dressings in the car when I locked it up that night. There were two cases of instruments and a small case with a few drugs in it. In the morning after breakfast, when I went into the garage, I found that the door had been forced, and the car was not there. That would be about 9.15 in the morning. I reported the matter to the police. As I have already said, I was eventually summoned to identify the car. I make a habit of noting the mileage shown on my speedometer each day.

From the time that you noted it on the 26th to the time that you saw it at the Brixton Police Station, what was the difference in the mileage?—I had not made a note of the mileage on the 26th. The last time I made a note was on the Sunday when I put the car away in the garage, and I put it in my diary, and the terminal numbers then read 25.9 miles. I estimate the mileage which I did on the Monday to be 15 miles, so that the speedometer should have read approximately on the night of the 26th September as 25.9 plus 15, or a total of 40.9.

And what was the difference between that and the figure shown when you saw the car?—It was, roughly, about 42 miles, I think. I did not make a note of the reading at Brixton myself. The figure registered at Brixton was 6684.3, which showed a difference of 43.6 miles.

You have told us what you left in the car. I just want to ask you this, did you leave a spent cartridge in the car?—No.

So far as you know, was there any blood on the off running board?—No.

Was the near side wing damaged?—Not buckled up as it was when I found it. It had a few scratches.

Did you see the buckling? Was that present when you left it on the night of the 26th?—No; there was no sign of it.

And, so far as you know, was there any bark adhering to the dumb irons?—No; no bark, because I had washed the car down on the Saturday previously.

When you saw the car at Brixton were any of your medical appliances left in the car?—None at all.

Were the bags there?—They had all gone.

Would you look at some of these which have been produced? This case was found on the bench of the garage workshop by Haines; what do you say about that?—It is exactly like a case which was in the car at the time containing scalpels. I cannot be positive about it as a single exhibit, but it is exactly like mine.[3]

[3] At Tooting Police Station on 22nd January.

Dr Edward R. Lovell

Look at these Spencer Wells artery forceps. These were found on the accused Browne by Inspector Barker. What do you say about those?—Those are exactly like a pair of Spencer Wells forceps that were in my car at the time it was stolen.

Look at these, which have been called dissecting forceps. They were found in the inner room of the office of the garage by Barker. What do you say about those?—They are exactly like a pair which were in the car before it was stolen.

Look at this; these are forceps which have apparently been filed at the point, and were found in the back of the Angus-Sanderson car by the driver's seat, by Bevis?—These are similar to a pair that were in my car at the time it was stolen, except that the points of the forceps have been filed down.

By Mr. Justice Avory—What difference does it make in their use, if any?—Well, it spoils their use as a surgical instrument, but it appears that it has been made to form a key to open something.

Examination continued—Here is a roll of bandage, here is the ethyl chloride, and this consists of two rolls of bandages and a piece of bandage. I suppose that the white gauze, and so forth, are of a pretty common form of stuff, are they not?—Yes; they are all more or less the same type.

What about the tube of ethyl chloride?—There was a tube of a similar make of ethyl chloride in the car at the time. The only difference between this and the one that I lost is that that one had an ordinary stick-on label on the tube, and this one is just plain glass.

Was that a label which could be removed?—It was a label which would come off with water, a paper label. Ethyl chloride is used as a local anæsthetic for freezing the skin.

Look at this, a convex lens. This was found by Haines in the bottom of the wardrobe in the upstairs living-room at Sisters Avenue?—There was a similar lens to this in my car at the time, with the exception that mine had a twisted wire frame round the lens, and a handle to hold it by.

Are there any marks or scratches on that lens?—On the surface of the lens there are a few scratches. My lens had on it the ordinary scratches which would be the same quality and fineness as the ones on this lens.

As regards the speculum, that is an instrument for looking into the ear, is it not?—Yes; it is the speculum part.

Something has happened to it, has there not? Do you say that any part of that is a speculum?—The monocle portion is an old ear speculum, and round the rim of the instrument a thin band of metal with a thread has been attached and soldered in, while on the outer rim there is a mark where something has been filed away, which would correspond in position with where

a small bar was attached to the speculum I lost for attaching to it the remainder of the instrument.

So far as you can see from the part that remains, does that resemble the one which you lost?—It resembles the one which I lost, with the attachment filed off and the remainder added.

By Mr. Justice Avory—The fact of the alteration is to make it useless as an ear speculum?—I cannot see any use for it now it is altered.

Examination continued—It would screw on to this, which is a battery and Sancy light, and this is ordinary adhesive sticking plaster?—I had a roll of plaster with flanges on it in the car. The flanges on this exhibit appear to have been cut away.

I have dealt with those individually. Taking them collectively, what do you say about them as a body of articles?—They are all mine.

Cross-examined by Mr. Lever—Is the real exact position this, that each of those articles is similar, so far as you are aware, to the articles which were in the car?—Yes.

But you cannot positively swear that any of them is the identical article?—Not a solitary exhibit only——

Wait a minute. You cannot swear that any single exhibit is the identical article?—No.

But that in view of the cumulative effect, you are of the opinion that they are your goods?—Yes. The instruments were in two cases. Some of the forceps were in a small case made of wash leather, and then there was an attaché case and brief bag in which the whole were placed.

What other medical things were there in the car?—There was another pair of forceps, there was a probe, there was a special knife, a scalpel known as a Bard Parker scalpel, and there would be some dressings. The dressings would be of the same character as those produced. They are one of the most common type of medical dressings. I gave a list of the things I missed at the time when I went to Brixton Police Station to identify the car. I have not seen the case nor the brief bag again.

[Referring to list.] Taking these things together, is it fair to say that they form the ordinary kind of kit belonging to a country practitioner?—Instruments of that nature would possibly be carried by every country practitioner, but the actual size of the instruments would hardly agree.

Would you take any well-known instrument maker in London, St. Bartholomew's Hospital, or any of those well-known places. Have you not just got to go in and get one of those forceps, and they are part of the usual stock?—You could buy almost any instrument in that way by walking in.

There is nothing extraordinary about them; they are part of the usual stock which you buy?—The only extraordinary part

about those is that they are being carried round by a medical practitioner.

The extraordinary thing would be carrying them about, but in themselves there is nothing extraordinary about them; they might have been obtained anywhere in London?—At any instrument maker's, yes.

Cross-examined by Mr. Powell—Do you know what would be the height from the ground to the end part of the hood of your car? Would it be 4 feet 11½ inches or thereabouts?—Thereabouts, I should think. You have to stoop to get in the car; at least, I have to stoop. I am 5 feet 11 inches.

I believe Constable Gutteridge's height was about 6 feet. It would follow that anybody that height would have to stoop to talk to the driver if standing in the road on the offside?—Yes; he would have to bend down.

Some cars have lights on the dash board by the driving wheel. Did yours have one?—It has a dash-board light, yes.

It is not a brilliant light, I suppose?—It is enough to light the whole of the dash board, and enable you to read the figures.

By Mr. Justice Avory—The jury want one question answered. Is ethyl chloride a thing that can be bought by any person at a chemist's, as far as you know?—As far as I know, yes. but I cannot see any point in an ordinary person buying it. It is not a dangerous drug.

But it is not the kind of thing you would expect to be used in a garage?—I cannot conceive of any use for it in a garage.

At what time did you go to bed on the night of the 26th September?—About half-past twelve.

Up to that time would you have heard anybody taking your car out of the garage?—I think so, because there is a gravel drive up to the garage.

Where were you sitting?—We were sitting in the front of the bungalow.

You were sitting in a room near the garage?—Yes.

And did you, in fact, hear any disturbance at all?—None at all.

Owen Jones, examined by Mr. M'Clure—I am an executive officer of the General Post Office, Newbridge Street House. I produce the original of a telegram, which was handed in on the 21st January of this year at 1.3 p.m. at Clapham Common Post Office. It is addressed to "Kennedy, 2 Huguenot Place, Wandsworth." I cannot identify the person who handed in the telegram. It reads, "Come at once, sister seriously ill. Stay indefinite. Kitty."

Detective Sergeant John Harris (recalled), further examined by Mr. M'Clure—I have seen the accused Kennedy write. I know

his handwriting. The words "Come at once, sister seriously ill. Stay indefinite. Kitty." in the telegram are in Kennedy's handwriting. The address is written in block letters.

Cross-examined by Mr. POWELL—Kennedy in his statement refers to that telegram?—Yes.

Would you agree with me that it is quite obvious that his references to that telegram in this statement are quite true?—Absolutely.

ELIZA TREWIN, examined by Mr. M'CLURE—I live at 2 Huguenot Place, Wandsworth, and I let out apartments there. I know the accused Browne. [Witness identified the accused Browne in Court.] Browne and his wife lodged with me in the latter part of last year. It might have been in September or October. They were only with me for a few days, not quite a week. They stayed with me until they were suited with a small flat. I should think it would be nearer the end of September. I also know the accused Kennedy. [Witness identified the accused Kennedy in Court.] Kennedy and his wife stayed with me from the 14th till the 21st of February. He was alone when he took the room, but he brought his wife later in the day. He paid me a fortnight's rent in advance. I remember a telegram coming on the 21st of February. After the telegram they packed up their things and left me. They left the same evening.

JOHN PEARCE, examined by Mr. ROOME—I am a shop assistant to Francis & Sons, Ltd., of Clapham. I remember on Saturday, 21st January, taking a Tate sugar box from my firm's store, and making a lid for it, and taking it to 2 Huguenot Place. I got there about 5.30 in the evening. I first of all saw a woman, and then I went away and came back in about half an hour, and saw a man. The man was the accused Kennedy. He told me he worked for the Free State Government, and was going back to Ireland that night.[4] When I left the house Kennedy invited me to a public-house, and I went with him. Before we went into the public-house he showed me a revolver. It was similar to that. He took it from his overcoat pocket.

Did he give you any reason for showing it to you?—He mumbled something about his wife, about taking care of herself with it, but what the words were I could not tell.

WILLIAM ERNEST STONE, examined by Mr. ROOME—I am a garage proprietor at Wandsworth. I remember a job on Saturday, the 21st January of this year, when I drove a man and a woman to Euston in the evening. I picked them up at Kenley House, 2 Huguenot Place, Wandsworth, about 7.30, I believe, in the evening.

[4] Kennedy was possessed of a marked brogue.

Do you remember any part of the luggage?—Yes; the luggage consisted of four pieces that I handled.

Among the luggage was there a Tate sugar box?—A white deal box very similar to a Tate sugar box.

Joseph Thomas, examined by the Solicitor-General—I live at the Crack Hotel, 13 Rice Street, Liverpool. My wife is licensee of the hotel. I know the accused Kennedy, and I have known him for some time. He came to the hotel about the middle of December, 1927. He told me he was a compositor. He also told me he was manager of a garage in London. He showed me an automatic revolver. This one, which is now shown to me, is the revolver I refer to. It is a Savage. He asked me if I could get him some ammunition. He showed me the ammunition which was in the revolver. The revolver was loaded when he showed it to me. He asked me to get him some similar ammunition, fifty or a hundred rounds. He gave me one cartridge as a pattern. I did not get any ammunition for him; I had no intention of doing so. I saw him again about the 24th January, 1928. He was not staying at my hotel in December; he was just in for a drink, and then went out. When he came on the 23rd or 24th January he asked me if I had got them, and I said, "No."

Cross-examined by Mr. Powell—I think you and Kennedy were old friends, were you not?—Yes.

And it was in the course of conversation that a revolver cropped up?—Yes.

And is it the fact that when you and he were in South Africa together you both had firearms?—Yes.

There is nothing strange connected with the possession of firearms?—Not a bit.

Or in anybody having a firearm who intends to go abroad?—Of course, we were issued out with the firearms during the African War.

David Staunton, examined by Mr. Roome—I live at 119 Copperas Hill, Liverpool. I know the accused Kennedy. I let him a room in my house on the Sunday previous to his arrest. I am not sure of the date. He came with his wife. [Shown a pistol magazine.] I saw Sergeant Mattinson pick something similar to that in my room, but I could not say it was this, as my sight is defective. It was on the night of his arrest that it was picked up.

William Guthrie Mattinson, examined by the Solicitor-General—I am a detective sergeant of the Liverpool City Police Force. On the 25th January I was in company with Inspector Kirschner and other officers round 119 Copperas Hill, Liverpool, when about twenty minutes to 12 p.m. I saw a man walking along

the street. I followed him. I recognised him when I overtook him about 150 yards from the scene where I first saw him. He was walking quickly and steadily along St. Andrew's Street. He had the collar of his overcoat turned up, and the front of the brim of his trilby hat turned down with his left hand over his face. When I got close to him I recognised him to be the accused William Henry Kennedy. I approached him on his left-hand side. As I drew up to him I just said, " Come on, Bill. Now, then, come on, Bill."

Just tell us what happened then?—I was then about 2 feet from him. He swerved suddenly round, facing me. At the same time he drew his hand out of the right-hand pocket of his overcoat, and thrust the muzzle of a pistol beneath the point of my ribs.

Did you hear anything?—Yes; I heard a distinct click.

What did you do?—I immediately closed with him and grasped his right hand, which held the revolver, with my left hand, and twisted his arm up into the air, and at the same time with my right hand hit him in the left side of the face.

Did you lose anything from your coat in the course of the struggle?—I later discovered that a button had been torn from my overcoat, together with the piece of cloth to which it was stitched. I am a plain clothes officer, and I was in plain clothes at the time. When I struck him in the side of the neck it knocked him partially off his balance, and it gave me the opportunity of wrenching the revolver out of his grasp with my left hand, and I got him by the back of the coat collar with my right hand.

You have told us what he did. Did he say anything at all when he turned round on you?—He said, " Stand back, Bill, or I'll shoot you." That was when he was in the act of pulling the revolver from his pocket.

What happened next?—I thrust the revolver into his ribs and began shoving him back up St. Andrew's Street, shouting at the top of my voice. I pushed him round into Copperas Hill, where he had come from, and after I proceeded some distance down Copperas Hill I was met by Inspector Kirschner, Sergeant Duncan, of the Metropolitan Police, and Chief Inspector Roberts, of the Liverpool Police.

Up to that moment you had been single-handed, had you?—Yes.

Did they then take charge of the accused?—Yes; they took hold of Kennedy, but just before they did so I held the pistol up in my hand, and shouted to them, " It's all right, I've got it."

Then what happened to you?—I went sick and partially sank to the floor. [Shown an automatic pistol.] That is the automatic pistol that Kennedy pushed into my ribs. There is a safety catch on it. When I was all right again I went to the police station and saw the accused Kennedy in the guard room.

Did he say anything to you as he went in?—As I passed him he looked up at me and said, "I am sorry; I have no grudge against the police, but you should be in heaven now, and there was one for me."

What did you say?—I looked at him and said, "I did not expect that from you." Later, I went back to 119 Copperas Hill, and met a sergeant. It was shortly after midnight on the morning of the 26th. I found the magazine of an automatic pistol on a shelf of a chest of drawers, which corresponded with the magazine which I have just removed from this pistol. It was an empty magazine.

Cross-examined by Mr. Powell—The house I was searching was a house over a shop at a corner of a street, the side street being Hart Street and the frontage being Copperas Hill. I did not see the accused Kennedy come out of the door; I just saw him in Copperas Hill. I was standing at the corner of Greek Street and Copperas Hill. Greek Street is a street which runs parallel with Hart Street. When I first saw Kennedy he had partly passed me on the opposite side of the road. I was standing with other officers. He had got probably 10 yards past us when I detached myself from the group and began to follow him.

He was obviously under the impression that he was being watched from his manner?—From his attitude, yes.

When you detached yourself from the group he was then on the pavement on the other side of the road?—He was.

So that there would be, I suppose, about 30 or 40 feet at least between you?—There was.

When you detached yourself from the group and came after him, at any moment of time before you actually touched him he could have fired at you if he wished to, assuming, of course, he knew he was being followed?—I could not say that.

What was there to prevent him firing at you as you were following him if he saw you?—I do not know that he did see me.

I am asking you to assume that. Was it about 100 yards from the house he had left where you actually stopped him?—Yes, it would be.

Mr. Justice Avory—Mr. Powell, I do not want to stop you, but you must bear in mind that the accused is not now being tried upon any charge of shooting or attempting to shoot this officer.

Mr. Powell—My lord, I am very much obliged to your lordship, because I have been wondering how to deal with it. I am much obliged, because your lordship remembers I had proposed to make that point to the jury, but I was not exactly certain what the true position was. The learned Solicitor-General in opening referred to this matter.

Mr. Justice Avory—Undoubtedly. I am not saying it is not evidence; the conduct of a man when he is arrested may be very

material. All I am pointing out to you is the details of the conduct can only be relevant upon a charge of shooting or attempting to shoot this officer, and he is not being tried for that.

Mr. Powell—I am most anxious to be in order, as your lordship appreciates.

Mr. Justice Avory—I do not want to stop you at all.

Mr. Powell—I want not to waste time. I do not want to ask one question more than is necessary, but at the same time I do not want to miss something out I want to put. I was wanting to put to the officer that Kennedy never made any attempt to shoot him, but I do not want to avoid that cross-examination, and have it put against me afterwards that I did not cross-examine on those lines.

Mr. Justice Avory—By all means put any question you like on that point. There is no evidence that he did make any attempt to shoot him until the moment when the officer spoke to him.

Mr. Powell—Yes, my lord. I was rather going to lead up to the argument that he never made any attempt at the time, and the best evidence that he made no attempt at the time is the fact that he never shot when he had the opportunity of doing so at the time. *(To Witness)*—It is the fact, is it not, that the safety catch was up?—I do not know that.

Did not you examine it?—No.

You know from your brother officer to whom you handed it that it was up?—I do not know that.

You are not going to suggest that it was down?—I do not know whether it was up or down. If it had been down——

What is the name of the officer who took it?—Inspector Kirschner.

Do not you know quite well he says it was up?—I do not know that he has ever said it was up.

Has he never told you?—No.

And you have never asked him?—No.

And you do not know that he gave that evidence at the Police Court?—No.

You really ask the jury to believe that a brother officer who took this weapon from you has never told you whether the safety catch was up or down?—No, he did not.

Is not what you heard the pistol against that button of yours?—It might have been.

Have you any doubt whatever that it was the pistol catching against that button that tore the button off?—I could not say that. I do not know.

Do not think that I want to detract from your plucky behaviour in the slightest degree, but you will be fair to Kennedy, will you not?—Certainly.

Was there anything the matter with your button or your coat before you met him in the street?—Nothing.

And after this incident the button dropped off, having been torn by some sharp instrument obviously?—I could not say that. It had evidently become detached in the struggle.

I suggest to you that just before you got to Kennedy he turned round and saw you, and if he had wanted to shoot you he could easily have done so?—He did not.

At any rate, what you say he said was, "Stand back, Bill, or I'll shoot you"?—He did.

You did not stand back, did you?—No.

And he did not shoot?—He tried to.

How could he try to shoot without putting the safety catch down?—I do not know that.

By Mr. Justice Avory—How long does it take to put the safety catch down?—The fraction of a second, my lord.

Cross-examination continued—I suggest to you either that noise (demonstrating a click with the safety catch in drawing the pistol from the pocket without having the finger on the trigger) or the pistol striking against that big button of yours is all you ever heard, and it is gross exaggeration to say that he tried to shoot you?—Well, I believe he did.

I suggest what he did to you was mere bluff to try and frighten you, and, as my lord has pointed out, there is no charge——

Mr. Justice Avory—You are beginning to realise that now.

Mr. Powell—My lord, I have realised it before, but I find it difficult to know how to deal with the incident without dealing with it fully. (*To Witness*)—You say that at the police station he said to you, "I am sorry, I have no grudge against the police, but you should have been in heaven now, and there was one for me"?—Yes; that is what he said.

Do you really say he said that?—Yes.

Was there anybody else present?—Yes.

Who?—Probably about a dozen officers.

And how many of the dozen are witnesses in this case? How many ought to have heard it if it was uttered having regard to their nearness to Kennedy when you say he made the statement?—Any of them that were round about him.

But how many do you say there were round about him?—Well, immediately round about him, four or five.

I suggest that all he said was, "I have no grudge against the police"?—No; he said what I say he said.

Re-examined by the Solicitor-General—Did you say what you said that you said, "I did not expect that from you." When you said that did you or did you not believe at the time that he meant to shoot you?—I did.

Evidence for Prosecution.

Albert Kirschner, examined by the Solicitor-General—I am a detective inspector of New Scotland Yard. I went to Liverpool for the arrest of the accused Kennedy, and I was present in the neighbourhood of 119 Copperas Hill the time he was arrested.

I think that the moment at which you came up was when the last witness was bringing Kennedy back struggling to the house?—I heard a shout from Sergeant Mattinson. I was then with Sergeant Duncan and Chief Inspector Roberts, of the Liverpool Police Force. We rushed to where the sound came from, and saw Sergeant Mattinson struggling with the accused Kennedy.

What was happening at the moment when you got there?—I saw Sergeant Mattinson had charge of the accused Kennedy. He had hold of him by the collar of his coat by the right hand, and in his left hand he held a pistol. We all three rushed over, that is to say, Chief Inspector Roberts, myself, and Sergeant Duncan. At that moment Sergeant Mattinson staggered back, and fell into the arms of a uniformed constable, who had then come up. Mattinson had in his left hand a pistol. Sergeant Mattinson produced the pistol to me at the Warren Street Bridewell. At the moment that Sergeant Mattinson fell back he said, "I've got it." At the same time he had in his left hand this pistol. We conveyed the accused to the Warren Street Bridewell, which was close by. While taking him to the bridewell no charge was mentioned to the accused at all, but he said, "It's all up now, you have got me. How many more of you want to hold me?" When Sergeant Mattinson handed the pistol to me at the station there was a cartridge in the breach, and it was fully loaded, as far as I could judge. The safety catch was at safety. I searched Kennedy. I found nothing connected with the automatic pistol in his possession. He was dressed in an overcoat, an undershirt, and pair of trousers. The trousers were undone in the front: his boots were unlaced, and he had no overshirt, he simply had an undershirt. He asked for his shirt and collar to be fetched for him. I charged him.

I think in the first instance at Liverpool he was charged simply with this Vauxhall car affair?—Yes. About 1.30 a.m. I returned to Warren Street after going to the rooms he occupied at Copperas Hill, and when I returned to Warren Street I said, "I am Inspector Kirschner, from Scotland Yard. I am going to arrest you upon a charge of being concerned with a man named Browne, now in custody, of stealing a Vauxhall car from Tooting, London, in November last, and shall take you to London." I cautioned him. He was then taken in a motor car to Daile Street Police Station, which is the head police station in Liverpool, and on the way he said, "Yes: I had a premonition something was going to happen to me to-day, and I intended going. You are lucky to get me. While I was in the house I heard the taxi man being told to drive to the next street. That gave me the tip."

Had any incident like that happened? Had any officers driven up in a taxi?—Yes.

And the taxi man was told to drive to the next street?—Yes. I did not see him any more that night. The next I saw of him was when I took him over to the Daile Street Bridewell at about a quarter to four in the morning. That was for the purpose of taking him over to the cells. Nothing of importance happened then. From that time I did not see him again until just before his departure for London next day. His wife accompanied him to London. I took him up to London.

Cross-examined by Mr. Powell—I should think it was a matter of minutes after I arrived at the station that Sergeant Mattinson came in with the pistol and handed it to me. There were a number of officers there at the time.

Did he ever have the curiosity to ask if the safety catch was up or down when he handed it to you?—No; I saw that it was, and I did not tell him.

Did you ever tell him?—No. I do not think I had any conversation at all with Sergeant Mattinson either then or afterwards at the Police Court or anywhere else.

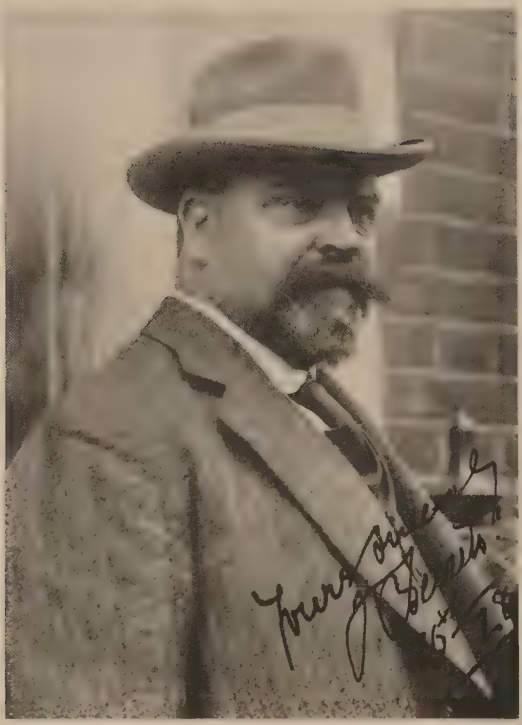
And at no time, I understand, at Liverpool, was anything said to Kennedy about the murder of P.C. Gutteridge?—Not to my knowledge.

James Berrett, examined by the Solicitor-General—I am a Chief Inspector of Police. On the 21st January, at 12.45 a.m., I saw Browne in detention. I had Sergeant Harris with me. I said to Browne, "I am Chief Inspector Berrett. I have been making inquiries respecting the murder of P.C. Gutteridge at Stapleford Abbotts, Essex, on the night of the 26th September, 1927. Will you account to me for your movements on the night of the 26th September and early morning of the 27th September, and for your possession of the Webley revolver and ammunition? I caution you that anything you say will be taken down and may be given in evidence." Browne replied, "Why should I tell you anything? But, there, I might as well tell you about myself." He then made a statement which was reduced to writing by Sergeant Harris in my presence. It was read over to him, and he signed it as being correct.

[At this stage the Clerk of Court read the statement referred to.[5]]

The next day I saw Browne again at 9.30 p.m. In the meantime the Smith & Wesson revolver, the small silver-plated revolver, and the Webley revolver found at the back of the driver's seat had

[5] See p. 10.



Chief Inspector James Berrett.

been brought to my notice, also the metal case, which was found on the bench in the workshop.

Did you ask him if he wished to furnish particulars about those?—Yes. I brought him to the charge room, and the articles which have just been mentioned were placed upon the charge-room table. I said to him, "I again caution you," and then I showed him the two further revolvers and ammunition that had been found, the additional ammunition, and the white metal box, and said, would you like to furnish me with particulars as to how they came into your possession?" The accused said, "I will tell you something about them; you can put it down." He then made a statement, which was reduced to writing taken down by Sergeant Harris in my presence, read over to him, and signed as correct.

[The Clerk of Court read the statement referred to.[6]]

On the 26th January I saw the accused Kennedy at New Scotland Yard at 7 p.m. I said to him, "I am Chief Inspector Berrett, and this officer is Sergeant Harris"—that is the officer that was with me—"you are detained on a charge of being concerned in stealing a Vauxhall motor car, but I have been making inquiries for some time past respecting the murder of P.C. Gutteridge at Essex. Can you give me any information about the occurrence?" Kennedy replied, "I may be able to tell you something, but let me consider awhile." He then held his head with both hands, his elbows resting on the table. After some minutes in this position he said, "Can I see my wife?" I said, "Yes," as she was in the building at the time. His wife was brought to the room by Inspector Kirschner, and he said to her, "Well, my dear, you know when I was arrested at Liverpool yesterday I told you I thought there was something more serious at the back of it. Well, there is. These officers are making inquiries about that policeman murdered in Essex. Mrs. Kennedy exclaimed, "Why, you didn't murder him, did you?" Kennedy replied, "No, I didn't, but I was there, and know who did. If I am charged with murder and found guilty I shall be hanged, and you will be a widow. On the other hand, if I am charged and found guilty of being an accessory after the fact I shall receive a long sentence of penal servitude, and be a long time away from you. Will you wait for me?" Mrs. Kennedy said, "Yes, love, I will wait for you any time." Kennedy said, "Well, what shall I do then?" Mrs. Kennedy said, "Tell these gentlemen the truth of what took place." Kennedy replied, "All right, I will." He then said to me, "You can take down what I want to say, and I will sign it." I then cautioned him, and he made a lengthy statement.

I want you to tell me about how long you were engaged in

[6] See p. 13.

taking that statement?—I should think from just about seven o'clock. I suppose it would be about ten minutes or a quarter of an hour, perhaps, whilst he was sitting there thinking and resting his elbows on the table before he asked for his wife to be brought in. I should think the statement might have started somewhere, I cannot say exactly, somewhere about a quarter-past seven to half-past seven, and I suppose it was finished somewhere about half-past ten; I cannot say.

That is three hours or so?—It was, I should think, a little more.

Did he make it carefully and deliberately?—He hesitated a very great deal at different times. During the whole course of my experience I have never taken a statement from a man who exercised such care.

Did he make any corrections either in the course of it or after it had been read over?—At different times he would have portions of the statement read over to him before he continued, and after it was completed and read over he made certain alterations which he initialled, and, in fact, he cut one passage out altogether which he initialled.

[The Clerk of Court read the statement referred to.[7]]

After that did Kennedy ask to be shown the revolvers?—Yes; and I showed them to him. He examined both the Webleys, he broke them, and after breaking them both he referred to the first one that was found in the possession of Browne and said, "That is the one, in my opinion, that I reloaded," and he made a statement to that effect.

I think that he made a further statement which was taken down in writing in the same way as the other?—Exactly. It was signed in the same way as the other. And here is the letter he had already referred to in his earlier statement which had been found in the interval.

[The Clerk of Court read the statement and letter referred to.[8]]

On the 6th February I saw both accused together at Lavender Hill Police Station, and charged them formally with the murder. I said, "I am Chief Inspector Berrett. At 5.30 p.m. on the 27th September we saw the dead body of George William Gutteridge, a police constable of the Essex Constabulary, in a coach-house attached to the Royal Oak at Stapleford Abbotts, he having died as the result of bullet wounds. Since that date I have been engaged with other officers of the Metropolitan and the Essex police making inquiries respecting his death, and as a result of my inquiries,

[7] See p. 14.

[8] See p. 20.

statements taken, and information I have received, I am now going to charge you both with being concerned with the murder of George William Gutteridge by shooting him in the head with a revolver on the Romford and Ongar road at Stapleford Abbotts between 3.30 a.m. and 6 a.m. on the 26th September, 1927. I caution you both that anything you say will be taken down and may be given in evidence." Browne said, " You are charging me with murder; it's absurd, I know nothing about it." Kennedy made no reply. They were then charged, and the charge read over to them again by the officer making the charge, and they made no reply.

Immediately, or shortly after, I think you spoke to each of them separately and handed each copies of the statement made by the other one?—Yes.

Did you tell each of them that if they wanted to say anything about the other man's statement they could send for you?—Yes.

Has either of them done so, in fact?—No. I waited there an hour in the accuseds' interests, but neither of them sent for me, and I waited till their solicitor arrived, and I heard nothing further.

Cross-examined by Mr. Lever—You have told us that Browne said in answer to the charge, " I know nothing about it "?—Yes.

And that is the attitude that he has maintained from first to last about this murder?—Yes.

He made two statements, you have told us. I take it that those were made absolutely voluntarily on his part?—Quite so.

They were not, of course, promoted by questions, but they were given, I take it, voluntarily and without any hesitation whatever?—Yes.

At that time I gather that you had not formed any suspicion in your mind against Browne in reference to the Gutteridge murder?—In taking the second statement I perhaps had a little suspicion, but I had not made up my mind.

I am very much obliged. Then it was when Sergeant Harris was taking at Browne's dictation the second statement that a suspicion began to dawn in your mind?—It did.

Up to that time there was no suspicion of any connection with the murder?—Well, suspicion—of course I had suspicion more of a minor kind for some time of many people, but it was then, when taking the second statement, that my suspicion appeared more founded.

I notice that in the statements of Browne there are certain names not disclosed?—Yes.

One of them, I think, is he employed a man, meaning, of course, you have found since, Kennedy?

Mr. Powell—I object.

The Witness—It was within my knowledge then, sir, that he was employing more than one man at that place, and I did not know whether it was Kennedy or any one else.

Cross-examination continued—He did not, at any rate, disclose the name at that time?—He did not.

And there are other cases we have heard of in the statement where he does not disclose the name?—That is so.

With reference to the statement that Kennedy made to you, were you cross-examined about that at the Police Court?—Yes.

By the legal representative of the accused Kennedy at the time?—Yes.

And were you asked when you first saw Kennedy if he was rational and normal?—Yes.

And were you asked whether he was a sick man and tired, and so on?—Yes.

Were you asked whether he was taken to your room to be examined?—Yes.

And whether Superintendent Savage said to the accused in your presence, "Tell us what you know about it"?—I was asked that; I was examined about that.

You denied that?—Yes.

And you were asked whether Kennedy replied, "What are you talking about?" and whether Superintendent Savage did not say, "You bloody well know, we are talking about a shot policeman"?—I was asked all that.

You were asked, were you not, whether you said to Kennedy, "You did it?"—I was asked that.

And you denied it?—I did.

Were you asked whether Kennedy was kept in the room for hours before his wife came in?—Yes.

And whether Kennedy was not interrogated for four hours by yourself and Superintendent Savage?—Yes.

Were you asked if Kennedy declined to make a statement?—That is so.

And were you asked if Superintendent Savage said, "You will swing if you don't own up, because Browne has told us you have done it?"—I was asked that.

And were you asked if Kennedy said, "I don't know what you are talking about," and that Superintendent Savage said, "You know about a shot policeman." You were asked those questions?—I was asked that.

Were you asked whether Superintendent Savage did not say, "If you don't open your mouth you will swing. Driscoll swings to-morrow, and if he had opened his mouth he would not have swung. We have got enough evidence now to swing the pair of you"?—I was asked all kinds of things like that.

You were asked a number of questions, at any rate, to show the statement Kennedy made was unreliable and not voluntary?—Yes.

Were you asked whether you said, "Who was it shot him? We know you can't drive, and it was the driver who shot him.

I think you will come out of this all right. You have no need to fear. You will not have the capital charge made against you. Browne is a desperate gunman, and has probably led you away, because he told us that had he got hold of his revolver when arrested he would have shot the lot, and by God he would have done it. Browne is the dominating mind; he has dominated the minds of several people." Those questions were put to you as to what you said about Browne?—Yes.

Did you, in fact, say any of those things?—None at all.

Your answer was the whole of that was imagination and invention?—Yes, absolutely.

That was the first attitude that was adopted by Kennedy's adviser. Then this statement we have now heard read?—Those questions I was asked, yes.

Cross-examined by Mr. POWELL—What you say, I understand, is that it was a voluntary statement?—Absolutely.

And do you agree it was made immediately his wife ordered him to speak the truth?—Within a couple or three minutes, I should think.

And did you form the impression that they were very fond of each other from what you saw going on?—Well, they kissed each other as soon as they met, and remained like that until I commenced the statement.

When his wife said, "Tell the gentlemen the truth," he said, "I will"?—Yes, at once.

And then began the statement?—Yes.

Would it be right to say that when he was making the statement he was not asked to explain why he reloaded the revolver after the officer was shot?—I never put any question to him.

He was not asked to explain that at all?—Not at all.

Nor was he asked to explain anything about his arrest at Liverpool?—No.

Now, I want you to understand that I am not suggesting for one minute that anything improper was done at all, but is not there some possibility that during all those hours you may possibly now and again have said, "Well, what next" or "Do you remember a certain date"?—There was no occasion for that, because, as I have said before, this was a man who sometimes spoke very quickly, and the writing had to be put down very quickly. Other times he stopped, and you had to wait for him until he made another statement.

I will just give you one illustration of what I mean. There is a paragraph here commencing "I well remember the day of the 26th September." Is it possible that you said to him, "Do you remember the 26th September"?—I never put such a question to him at all.

Re-examined by the SOLICITOR-GENERAL—With regard to these

two cross-examinations, I want to clear this point up. Were you present in Court when this case was first opened at the Police Court?—Yes.

And were you present when Sir Travers Humphreys, now Mr. Justice Humphreys, was proposing to read this statement of Kennedy's?—Yes.

Was a statement made about that by the solicitor who was representing Kennedy?—Yes.

And was the reading of the statement objected to?—At the last moment, at the request of the solicitor, it was argued on both sides for some time, and at the last moment the magistrate said to Sir Travers, "Would it embarrass you, Sir Travers, if you did not insist upon putting the statement in now?"

Yes, but I was not asking about that; I was asking about that objection which was taken before that ruling was made?—Yes; the ruling for it to go in was not made till the following week.

And what was the ground on which the statement was objected to?—Because it had been extorted by threats and favours.

By Mr. Justice Avory—Who was it raised the objection?—The solicitor, my lord.

For whom?—On behalf of Kennedy, and, in fact, both—a little on the other side as well. It was more or less jointly, but forcibly by Kennedy's solicitor.

Re-examination continued—Do you remember the actual word that was used with reference to the statement as to how it had been obtained?—"Pumped out," I think it was.

By Mr. Justice Avory—They objected to the statement being put in on the ground that it had been improperly obtained?—In every possible way, my lord.

Re-examination continued—Among other things, was it suggested that Kirschner and the inspector, whom I have examined to-day, had kept him starved on the way up from Liverpool?—Yes.

And for that reason were two officers examined the next week, whom I have not found it necessary to call to-day, to prove that that was entirely untrue?—Yes; and that clothing was not taken away from him, that he was given proper accommodation in regard to his bedclothes at Liverpool whilst detained.

At any rate, for the space of a week or so, the attitude of the defence was that that statement ought not to be allowed in on grounds of that sort?—Yes.

Of course, you have heard, as everybody else has heard, what my friend has just said about it. Were you in Court at eight minutes past twelve this morning when, in the cross-examination of Mr. Harris, Mr. Powell said, "I am not suggesting it was not a voluntary statement; I quite agree it was"?—I was requested to leave the Court; I was not present.

Adjourned till to-morrow at 10.30.

Third Day—Wednesday, 25th April, 1928.

GEORGE HENRY IBBITSON, examined by the SOLICITOR-GENERAL —I was formerly a lieutenant in the Royal Artillery, and I am assistant inspector of small arms ammunition, Royal Arsenal, Woolwich. I am thoroughly familar with small arms ammunition. [Shown the six cartridges found in the Webley revolver in the cupboard at the back of the driver's seat.] These cartridges consist of two Mark I, one Mark II, and three Mark III. Mark II ammunition is Royal Laboratory Woolwich ammunition, and can be identified at a glance by the letters R.L. with a broad arrow between the two letters. Mark II is a common type of small arms ammunition. Mark III cartridges are Woolwich ammunition. The Mark III ammunition is a rare type. It has a hollow nose. That sort of ammunition was made many years ago, say, twenty-five years ago. As regards the Mark I cartridges, one is a Woolwich cartridge, and the other Messrs. Kynoch's. I would describe them as rather pointed-nosed bullets. So far as the Arsenal is concerned, that Mark I type was last made about 1898, I believe. You do not find much of it about nowadays. The same remarks would apply to the Kynoch bullet. The Arsenal Mark I bullet is loaded with cordite, and is smokeless. The Kynoch Mark I is loaded with black powder and is not smokeless. At close range both would give very decided signs of peppering.

By Mr. Justice AVORY—Would there be a difference in the colouring?—There is a difference rather in the shape of the marks caused by the propellant and a difference in colouring. The black powder, by the fact of it being a smoke powder, would leave evidence of, I would describe it as, charcoal. In the case of the other, the propellant is in the form of a cylinder, and the peppering from that at very short range is symmetrical, rather in the shape of a long score than the heterogeneous shapes that powder would produce. Putting it in a colloquial way, the black powder would give the blackest effect. [Shown the bullet which was found in the ground underneath the constable's head.] In my opinion, that is a Mark I black powder bullet. [Shown the bullet found loose in the road, supposed to have come out of the right side of the neck.] That is a Mark I bullet. It was probably fired with cordite. [Shown the bullet found in the left side of the brain.] That is either a Mark II or a Mark IV bullet. It was made by the Royal Laboratory, and fired with cordite in all probability. The difficulty of being certain whether it is a Mark II or a Mark IV bullet is due to the fact that the after-part of Mark II and Mark IV bullets are very, very similar; it is only the front part

of the bullet, where there is a very decided difference between Mark II and Mark IV, that has been obliterated by impact. The nose has disappeared entirely. [Shown the twelve cartridges which were found in Browne's pocket on his arrest.] There are six R.L. Mark III, one R.L. Mark IV, and five cartridges of Messrs. Eley's manufacture, .45 calibre as opposed to .455, which is the strict definition of the service type. The .45 fires from the Webley revolver. There is just that fraction of a difference, but it functions perfectly well from the Webley service revolver. [Shown the six cartridges found in the Webley revolver in the lower pocket at the right-hand side of the driver's seat.] These cartridges are all marked R.L. Mark IV. Mark IV. ammunition is rare ammunition; it was last made towards the end of 1914. August or September, I believe, was the actual month when it was finished. It is ammunition that was abandoned on or about the outbreak of war. I have to test a great many rounds in the course of a year. Speaking roughly, I have had as many as eight millions. Taking the last four or five years, the proportion of Mark IV cartridges that would come under my observation would be something like 1 per 10,000, probably rarer than that. [Shown the sixteen cartridges which were found on the dresser.] These consist of two R.L. Mark III, seven R.L. Mark IV, and seven of Eley's .45. I cannot recall ever getting a Mark III sample for experimental purposes; it is an extremely rare type. [Shown the six cartridges which were found in the Smith & Wesson revolver on the top of the wardrobe cupboard.] A Smith & Wesson fires a service cartridge. [Shown the eleven cartridges found loose in the wardrobe.] These consist of eleven R.L. Mark IV cartridges. [Shown the twenty-three cartridges, twelve in a closed packet and eleven in a packet from which one had been removed, also found on the wardrobe.] There is an original packet of twelve R.L. Mark IV cartridges which has not been opened since it was packed in 1913. It is marked "19/4/1913 R.L. Mark IV." The other packet with one missing is similarly marked with the same date. All of the cartridges I have examined could be fired from a Webley revolver. [Shown the cartridge shell found in the doctor's car.] That is R.L. Mark IV. I have compared the base stamp mark with the stamp mark on the other Mark IV cartridges, and in my opinion they were all stamped with the same tool. [Shown the cartridge case and the Webley revolver.] In my opinion, that case was fired from that revolver.

What is it looking at that which makes you say that?—The shield of the revolver and the breech on which the base of the case is driven when the round is fired.

Mr. Lever—No questions.

Cross-examined by Mr. Powell—[Shown the automatic pistol.]

That is the pistol which was found on Kennedy when he was arrested?—Yes.

Am I right in saying that none of the service bullets you have referred to could have been fired from that revolver?—Yes.

Robert Churchill, examined by Mr. Roome—I am a gun-maker in business in Leicester Square. I have had a life-long experience of firearms. [Shown three bullets.[1]] I have previously examined those bullets. They are very badly damaged, but there is sufficient rifling left upon them to indicate from what type of revolver they have been fired. They have all been fired from a Webley revolver. The marks of the rifling are impressed on the bullet as it travels down the barrel of the revolver. [Shown a spent cartridge case.] This is .455 service ammunition. I have examined the two Webley revolvers. I have compared both of them with the spent cartridge case.

Are you able to form an opinion as to whether that cartridge case was fired by either of these revolvers[2]—Yes; the cap of the cartridge case takes the imprint of the breech shield of the revolver, and under microscope examination it is possible for me to see that this particular cartridge was fired from this Webley revolver, and could not have been fired from any other revolver. I have made experiments in firing shots out of both these revolvers against a pigskin target at close range. This is the target I used. I fired three shots out of each revolver at distances of 3 inches, 6 inches, and 12 inches from the target. I have compared the peppering on that target with the photograph of the wounds on the face of P.C. Gutteridge. First of all, with regard to the two wounds in the left cheek, there is hardly any marking at all, and there is no doubt those two shots were fired with cordite smokeless powder. Cordite causes a slight peppering, but it does not cause the tattooing or marking black powder does. From the absence of tattooing on the photograph I conclude that the two shots in the cheek were fired with cordite. With regard to the wounds under the eyes, from the considerable amount of tattooing particularly in the wound under the right eye it is evident that black powder was used for one of those shots, namely, the one under the right eye. The tattooing is more marked under the right eye. The left eye was a cordite shot, in my opinion. This Savage automatic pistol was handed to me on the 27th January by Sergeant Harris. It was fully loaded. I unloaded it. There was a cartridge in the barrel. There were seven similar cartridges in the magazine. They are .380 calibre automatic ammunition. The safety catch was at safety. In the case of this safety automatic pistol the safety catch is at the rear position,

[1] See illustration, p. 25.

[2] The reader may be helped to grasp what follows if he refers to the matter upon p. 23.

and it is necessary to slightly relax the grip or use the other hand to put it on; it does not work any too freely. Some safety catches are forward, so that one can use the thumb to put them on, but this is right back, and one relaxes his grip slightly to put it on, or else uses the other hand.

Apart from the safety catch being a little stiff, was the pistol in perfect working order?—In perfect working order. I have fired several shots with it.

Mr. Lever—No questions.

Cross-examined by Mr. Powell—Do you mean to say it is necessary to use both hands to operate that safety catch?—I said slightly relax your grip or use the other hand.

I thought I pulled it all right last night with my right hand. Cannot you do it with one hand? Just try?—I know, but not in a hurry. If I relax my grip I can.

It can be done with one hand?—Not whilst you are gripping it; with some safety catches you can by moving the thumb.

Is it possible, for instance, if you had that in your overcoat pocket, holding it in your hand, just to raise your thumb and pull it down?—Yes; while it is in your pocket.

It can be done?—Yes.

William Fox, examined by the Solicitor-General—I am the chief examiner of small arms at the Arms Inspection Department of the Royal Small Arms Factory, Enfield Lock. I have had twenty-seven years' experience of examining small arms. I examined the cartridge case, and compared it with the Webley revolver.

Does your examination enable you to express an opinion as to the revolver with which that cartridge was fired?—Not only give an opinion—I do not give an opinion: I say that case was fired from that revolver.

By Mr. Justice Avory—You mean to say that without doubt?—Absolutely, my lord.

Examination continued—What is it on the breech shield which has attracted your attention, and which enables you to say that?—On the breech shield just above the hammer nose hold there are two indentations overlapping; each indentation is really the result of a succession of blows; therefore the surface or cavity of the indentation and outline are very irregular as the result of having been produced by a succession of blows. Those two are at twelve o'clock, and on the cartridge case at a similar position there are obviously comparable embossings, not complete, for this reason, that the copper cap shell is doped before insertion, and even with the terrific pressure developed upon firing it is not sufficient to blow back the copper cap perfectly flat. Therefore, there is a certain portion of the surface deficient owing to that at the edge

Mr. Frank J. Powell.

of the radial fluted cap, but the embossings are very comparable with the indentations at twelve o'clock. When I say twelve o'clock I mean the position where twelve would come.

[At this stage the witness explained the meaning of his evidence to the jury, the jury being handed a microscope in order to examine the cartridge.]

There is also another indentation at seven o'clock, but that is not precisely reproduced on the cap shell—not completely reproduced owing to the fact that the hammer was protruded through and prevents the full set-back of the cap during fire. The hammer has been a most peculiar characteristics, the result of a succession of blows, which are rather difficult to describe, only they are peculiar in form and shape. I have examined the whole stock of revolvers waiting repair, numbering 1074, to see if I could find a revolver that was similarly marked to this one, but I failed to do so. I took half-a-dozen similarly damaged to the range and fired them, and the impressions on the cartridges were by no means comparable with this case. I have fired a similar revolver to this one to see how quickly it could be fired. Two rounds can be fired in one second if fired from the target. I also saw an expert doing it, and he got the whole rounds of in 12 seconds.

Colonel Henry Perry, examined by the Solicitor-General—I am a War Department chemist at the Royal Arsenal, Woolwich. I have compared the cartridge with the revolver, and I have observed the characteristics which have already been pointed out and described by the last witness. I have taken photographs which enable them to be appreciated very easily by means of enlargements. The marks of the breech shield of the revolver are reproduced on the case. In both revolvers I found traces of the residue of smokeless powder. Cordite is the most common smokeless powder.

[At this stage the photographs were exhibited and explained to the jury.]

The Solicitor-General—My Lord, both the counsel made short statements before the magistrate, and, subject to that, that is the case for the Crown.

Evidence for the prosecution closed.

Opening Speech for the Prisoner Kennedy.

Mr. Purcell—If your Lordship please, I desire to make a submission to your Lordship that there is no case for Kennedy to answer for the following reasons—I submit that there is no

[1] See Illustrations, pp. [illegible] and [illegible]

Mr Powell

essential ingredient in the evidence alleged against Kennedy that has not been proved, and no facts have been proved from which the jury could, as a matter of law, draw the inference that the ingredient exists. What I refer to is, I submit that in a charge of this sort, even though it is proved *prima facie* that the two defendants were together at the time, it must be proved by the prosecution that Kennedy knew that Browne had a revolver and would use it upon the night in question. In support of that submission I would respectfully refer your lordship to the case of the *King* v. *Lincoln and Stewart*, tried before Mr. Justice Talbot on 20th January, 1926, at the Wiltshire Assizes at Devizes. The only report I have been able to find is in *The Times* newspaper of the 21st January, 1926. It reads as follows:—"The trial began before Mr. Justice Talbot at Wiltshire Assizes at Devizes yesterday of Ian Ronald Maxwell Stewart (20) and John Lincoln (23), of 'E' Battery, Royal Horse Artillery, for the murder of Edwin Charles Ingram Richards, a brewer's traveller, who was found shot in his garden at Trowbridge in the early hours of Christmas Eve. In addition to the capital charge against the two men, the indictment contained second counts alleging robbery with violence. The grand jury returned true bills on both counts. Both the accused pleaded not guilty. At the close of the case for the prosecution counsel for Stewart submitted that there was no case on the indictment of wilful murder against Stewart, and, on the direction of the judge, the jury returned a verdict of not guilty on that indictment as against that defendant. The trial of Lincoln on the murder charge was adjourned till the morning. Counsel were—For the Crown, Mr. Rayner Goddard and Mr. Walter Spencer; for the defence of Stewart, Sir Henry Curtis Bennett, K.C., and Mr. F. J. Tucker; and for Lincoln, Mr. E. G. Hemmerde, K.C., Mr. Fred Wiltshire, and Mr. F. Cyril Williams. Case for the Crown. Mr. Rayner Goddard, K.C., opening the case for the Crown, said that the murder alleged was committed without any eye-witnesses, but he submitted that the circumstances pointed irresistibly to the accused having been at Richard's house on the night of the tragedy, and to their having been responsible for his death. The murdered man was frequently in possession of large sums of money, collected on behalf of his employers, and, having apparently no safe in the house, he was in the habit of carrying a revolver. The suggestion I make on behalf of the prosecution, said counsel, is that these men here are the two men who went to Richard's house for the purpose of robbery, that they knew that he carried a revolver, and for that reason they took a firearm or firearms with them. Counsel went on to relate the circumstances already detailed before the magistrates, in which Richards was found dying in his garden after he had returned from Bath in the early morning of 24th December. He was grasping a revolver from which some small

shot had been discharged, and a bullet still remained in the weapon. Seven cartridge cases were found exactly similar to those afterwards discovered with Lincoln's automatic pistol at Trowbridge Barracks. Whether Richards fired the first shot was a matter which could only be known to those improperly in the house and to Richards himself. It might be that Richards fired first, but one could then see that somebody in the kitchen fired in the direction of the back door which Richards would be entering. Whether Richards, after one shot, went and roused Mr. Stourton, his sub-tenant, they did not know. They knew that six more shots were fired, and they seemed to have been fired first from the back-door, and then by some one advancing up the path. It might be supposed from the nature of Richards' wounds, seven shots being fired at him, that he did not have an opportunity of defending himself by firing the ball cartridge with which his revolver was loaded and afterwards found to be undischarged. After repeating the description given in the Police Court of Lincoln's movements immediately before the shooting, Mr. Goddard said that since the case was before the magistrates a complete change had come over it so far as Lincoln was concerned, because, while on remand in Shepton Mallett Prison on 9th January he wrote a letter to the young woman whom he was courting, and in whose company he had been on the night of the crime. In this Lincoln gave an account of what he did on the night of 23rd/24th December, and he admitted that it was he who fired the fatal shot. Counsel read the letter "—I need not read the letter, my lord, it is only an admission he fired the shot on the night in question. "Counsel submitted that in law if two persons were out together on an unlawful enterprise, and the one caused the death of a person, the two were equally guilty."

Mr. Justice Avory—Is that Mr. Goddard's submission?

Mr. Powell—That is Mr. Rayner Goddard's submission, my lord, and respectfully I do not quite agree with that; but, however, it goes on: "It might be submitted in the defence that Lincoln fired in self-defence, because Richards fired first. That submission could not be upheld for one moment. Sometimes the argument arose as to the right of a householder to shoot at a burglar; but nothing could justify a burglar shooting at a householder, and, if he shot at a householder in order to be able to get away or to scare the householder or to assist the purpose of robbery, he was, counsel submitted, guilty of murder if he killed him." Now, my lord, I come to the important part: "With regard to Stewart, counsel further submitted that the jury would have to consider whether that night he went out to rob, and to rob with violence; and if the jury thought that he meant to rob that night, knowing that Lincoln was carrying a pistol, Stewart was guilty of murder. At the conclusion of counsel's speech evidence was called for the prosecution"; and

Mr Powell

then there is the evidence of the doctor who said he was a professor of pathology and bacteriologist of Bristol University. Then there was called William Warren, who gave evidence that Stewart and Richards, the deceased, " in company with himself and others, met at a Bath hotel on the evening of 19th December. Afterwards Richards took the witness and Stewart to his home at Victoria Road, Trowbridge, where they had supper, and then played cards. Cross-examined by Sir Henry Curtis Bennett, the witness said that until 19th December Stewart did not know Richards to speak to." Then Mrs. Brown gave evidence that the two accused men " left her house about 11.45 on the night of 23rd December, Stewart having called on his motor cycle for Lincoln." Then the sentry gave evidence that Stewart returned to the barracks at 1.5 a.m., and then the governor of the prison gave evidence to prove the letter which was written, and then there was an argument about the admissibility of the letter, and then the case for the prosecution was closed, and then " Sir Henry Curtis Bennett, addressing the judge, submitted that there was no evidence against Stewart on the indictment for wilful murder. The judge said that he did not see how any jury could convict Stewart on the indictment for murder. He pointed out that there was still another indictment which had not been placed before that jury "—my lord, exactly the position here. " Mr. Goddard: In view of your ruling, my lord, I will not carry the matter further on the indictment for murder, but I shall have to consider my position in regard to the other charge. Addressing the jury, the judge said the question was whether there was any proof that Stewart knew that Lincoln was armed on this night, and that firearms would be used. Having listened to the arguments, he (the judge) saw no such proof, and in these circumstances he did not think the jury would be acting rightly if they found Stewart guilty of murder. If that was so, Stewart was entitled to a verdict of not guilty before the case went further," and, being so directed, they returned a verdict of not guilty.

Now, my lord, I submit that in this case the prosecution have not any stronger case than was proved there. I concede for the purpose of this argument the prosecution have proved association between the two men before the date of the crime; they have proved from Kennedy's statement that at the time the crime was committed Kennedy was present, and that was also proved in the case I cited, and in my submission as a matter of law those facts do not constitute facts which can go to the jury from which the jury are entitled to infer this guilty knowledge on the part of the other man.

Mr. Justice Avory—What is the proposition of law that you say was laid down in this case of Stewart and Lincoln?

Mr. Powell—That the onus is upon the prosecution to prove that Stewart in that case—in this case I submit Kennedy—was

Frederick Guy Browne.

not only present, but knew that the other man was armed and —" and," my lord, to use his lordship's words, to be accurate, " and that firearms would be used "—to use his lordship's actual words. I submit that is not proved here, and if the case was to go to the jury it would not be safe, it would not be right, to allow a man to be placed in peril of his life on the facts proved before your lordship. When the case was opened for the Crown the learned Solicitor-General referred to two matters which he intimated were the two most important matters against Kennedy. He said in Kennedy's statement there was the fact that he said he had loaded a revolver after the commission of the offence. In my submission any act done after the tragedy is completed goes only to the question of accessory after the fact; it does not go to the question of a person being a principal; and I submit it would not be right for that matter to be pressed against Kennedy for the reason I have stated. The other fact the learned Solicitor-General relied on in his opening was that on the 26th January, some months afterwards, Kennedy was found with a loaded revolver. That question is very embarrassing for the defence, but the defence often have embarrassing matters in this respect. That is a matter of a separate indictment which has not yet been tried, and it is the subject-matter of a definite charge against Kennedy, and yet the learned Solicitor craves it in aid, not on a charge of attempting to shoot the officer, but on a charge of wilful murder which took place months before. I ask your lordship to say there is no substantial difference between the case I have cited and the case you are now trying, and to say that there is no case for Kennedy to answer on a charge of wilful murder.

Mr. Justice Avory—I think it better to say no more than to say there is, in my opinion, a case against Kennedy for Kennedy to answer.

Opening Speech for the Prisoner Browne.

Mr. Lever—The defence of Browne may be put in a few words. The words are not my words. They are not words which have been arranged or concocted or discussed between solicitor and counsel as showing the best answer to the evidence that has already been given in the depositions by the prosecution. They are unsophisticated words coming from the mouth of Browne himself, when he had no legal advice and was unable to consider the bearing, one way or another, they would have on the course of the case. But if those words are established, they establish that Browne is absolutely innocent of the charge that is brought against him. On 6th February, when Browne was formally charged with this crime, his answer to Chief-Inspector Berrett was

Mr Lever

this : " You are charging me with murder. It is absurd. I know nothing about it." It is under that flag that we now stand. It is that attitude that Browne adopted in the first instance. It is the attitude in which he has persisted, and it is the attitude in which we now sink or swim. When I come to analyse the evidence which has been given, you will find excellent reason for saying that this short, pregnant statement is true. You can hardly believe now that Browne knows nothing about this matter, but I will show you why you can believe that statement and act on it in acquitting Browne of the charge against him. When I come to analyse the evidence you will be surprised how small is the amount of it which affects Browne out of all the troupe of witnesses who have gone through the witness-box. I do not find difficulties in the evidence, but I do find them in something which must be present in your minds, and it is my terribly difficult duty to extract from your minds the impression created by the statement made by Kennedy. That is a great difficulty which overshadows my appearance here and that of my client. But I am delighted that there is one difficulty which I have not got. Although it is a policeman who was murdered, cruelly and callously murdered, the police witnesses have never shown any symptom of their indignation, no unfairness, no hostility. Neither I nor Browne has any complaint to make against any police witness in the case. We have been treated fairly, and I will loyally abide by that statement even if ever it works against me. We—all of us—are proud to have such a police force in this country. I am not claiming sympathy for my client. If he committed this murder he is a monster rather than a man, for it transcends in its cruel and callous details almost anything recorded in the history of modern crime. I do not ask for sympathy. I demand justice. It may be impossible for you to grant my demand, but I demand it. On the night of the crime, continued counsel, Browne was at home with his wife. The remarks which he made when he was arrested about shooting, and so on, were doubtless in bad taste, but they were in the nature of banter, and were, perhaps, to some extent caused by anger or resentment. But those expressions were the very last which would be used by a man who knew that he might be charged with murder by shooting. They touched the topic which, above all others, he would have avoided, but they would naturally rise to his lips when the revolvers were taken from the car if he had no licence for them, and was, therefore, committing a criminal offence by their very possession. The medical instruments about which Dr. Lovell had given evidence would be accounted for. Browne would tell the jury where he had got them from. If he had been guilty of the murder he would have destroyed all those articles. He could not have gone on working and living with the evidence that he had committed murder always in front of him. Undoubtedly

Browne owned the revolvers which had been produced. But who was the man who had used them? Browne's reticence about where he obtained the revolvers might reflect to his credit as a man, and not to his discredit. With regard to the Webley revolver which undoubtedly shot the constable, and the cartridges used, Browne's explanation was that he never fired that particular weapon and that he possessed both Webleys for his own protection. My client kept a garage, and he sometimes came in contact with persons who did not belong to the most exclusive clubs in London. To own a revolver is one thing. To use a revolver is an entirely different thing. I have enough on my shoulders now, and I am not making any accusation against Kennedy or saying that he committed this murder, but when Kennedy accuses my client of committing the crime then I am up against Kennedy—but no more than that. Browne would tell the jury—and the dates were significant—that on 24th September he and his wife went to live at 33a Sisters Avenue, and from that time they slept in and occupied that house, through October and so on, a period which absolutely covered the night on which he was supposed to be away on the terrible errand with Kennedy. Browne and Mrs. Browne would tell the Court that they both occupied the house on the night the murder was committed. You are asked to believe that this man has two characters, so cautious that he shaves off his moustache to avoid recognition and so rash that he keeps all these things round him to provide evidence of his guilt. Where is the cogent evidence against this man apart from a cloud of suspicion?

Evidence for the Defence.

Frederick Guy Browne (accused)—(On being handed the card from which to read the oath): Your lordship, I want to swear to this different to this; it says here, "The whole truth"; I shall never know the whole truth about this; how can I swear to the whole truth?

Mr. Justice Avory—Are you going to take the oath or not?

The Accused—Yes; but I do not know the whole truth; I cannot tell the whole truth——

Mr. Justice Avory—You will either take the oath in that form or not at all.

The Accused—It is awkward; how can I tell the whole truth; I can only tell the whole truth as far as I am concerned.

Mr. Justice Avory—You must make up your mind; you will either take the oath in that form or not at all.

The Accused—It seems wrong. That is what I am looking at.

Frederick Guy Browne

Mr. Justice AVORY—I will not have any more time wasted; you must do one thing or the other.

The ACCUSED—If I take it is it on oath?

Mr. Justice AVORY—That is the oath which you are required by law to take if you intend to give evidence upon oath; if you do not——

The ACCUSED—I do not intend to give evidence on this oath.

Mr. Justice AVORY—If so——

The ACCUSED—I do on oath.

Mr. Justice AVORY—Then you must take the oath in that form.

The ACCUSED—I do. "I swear by Almighty God that the evidence"—that is not right.

Mr. Justice AVORY—You can read, can you?

The ACCUSED—I can read distinctly—quite clear.

Mr. Justice AVORY—Very well, read that.

The ACCUSED—"I swear by Almighty God that the evidence which I shall give will be the truth, the whole truth, and nothing but the truth."

Examined by Mr. LEVER—Frederick Guy Browne, you might just explain to the jury why you did not approve exactly the words, will you; what was your objection?—It says, "Tell the truth." I can tell the truth, but how can I tell the whole truth of something I do not know? I can tell the Court as much of the truth as I know, and nothing but the truth.

Mr. LEVER—That, I think, the jury will now quite understand.

Mr. Justice AVORY—Do not make these observations. It is not for you to say whether the jury will understand. I do not understand it.

The WITNESS—I will explain to the jury first, my lord.

Mr. LEVER—If your lordship does not understand it, I think I ought to ask him further to explain.

Mr. Justice AVORY—No; I do not want him to.

Mr. LEVER—Now, then, Browne——

The WITNESS—Wait a minute; does the jury thoroughly understand?

Mr. Justice AVORY—No, no.

The WITNESS—Do they understand I cannot talk about the truth of something I know nothing about; how do I know the truth of the thing?

Mr. Justice AVORY—You are not to make speeches to the jury; attend to the questions and answer them.

Examination continued—Frederick Guy Browne, you are a motor engineer, and you were residing at 33a Sisters Avenue until the date of your arrest; is that so?—Yes.

You were arrested, we know, on the 21st January, 1928. You were carrying on business at a garage; you rented a garage, I think, at 7a Northcote Road, Clapham. Is that so?—Yes.

From whom did you take those premises?—I took them from

the proprietor of the picture house attached to the same yard. I was at the back. It is Mr. Mistlin, the Globe Picture House.

What was the condition of the place when you took it; I think you took it in March, you say?—It was a very big yard; alongside there was an open shed which had been built. That is to say, there was a back wall, an end wall, a roof, and nothing else.

What were you doing with the premises?—I partly rebuilt it.

In what sort of way—for what purpose?—I turned it into a garage. It had been a milk yard belonging to Devenports, and I turned it from a milk yard into an ordinary repair and motor garage and paint shop.

About how many people were storing their cars there?—I built seven places. One was an office, four were where people garaged their cars at 10s. 6d. a week, one was turned into the paint shop, and there was a fitter's shop.

I think you employed a man. At first you were alone in the business, I think?—Yes.

And then I think you employed another man, and that was Kennedy?—Yes.

I think you told us in your statement that you got him from the Salvation Army to give him a start?—I did.

About what time was it? When was it Kennedy came to you?—Well, it was after I got the place started, and it took me some time to start it. I cannot tell dates; I cannot remember dates.

About how long would it be before the 26th of September, do you think, before the date of this occurrence?—I should say he came in the beginning of June or somewhere round that date.

Somewhere in the summer time, June. Where used you to sleep? Before you moved out of the garage where did you sleep?—While I was building it I built a back place and furnished it good enough for me anyhow, because I was working there all hours of the day right up till it was dark.

I think at that time your wife was in a position of cook-housekeeper living in the house?—Yes; somewhere else.

You slept in the garage?—Yes.

When Kennedy came where did you sleep?—Slept in the garage.

So the two of you were sleeping there for a time?—For a time, yes.

Which was the first place you and your wife took before going to 33a Sisters Avenue?—I think it is called the top of East Hill. I know it is opposite a sort of London Council Hall building. It is called Huguenot Place.

How many days were you there?—It was a week.

From there where did you go to?—We took this place while we looked for a place, and then we just got in and settled down, and I found a place, the place I wanted, at 33a Sisters Avenue.

Will you tell me on what date it was that you moved into 33a

Sisters Avenue?—I know it was on a Saturday, but since I have been arrested for this I have been informed it was on the 24th. I do not remember the date, but I know it was on a Saturday.

Which you have now fixed as the 24th September?—Yes; I saw the rent book since.

From the 24th September where did you sleep?—Since I took the place?

Yes?—At the place, of course, with my wife and daughter.

I want to particularly ask you about this night of the 26th September. Where were you sleeping that night?—At home.

Was your wife also there?—Yes.

And for some considerable time, weeks, and so on, after that where were you sleeping?—At home inside; at home all the time.

Did you go out on that night to Essex or any place on the 26th September?—No. I will tell you what happened. I took the place on the Saturday. I took the car and I removed Mrs. Browne from one place to the other place—that was to 33a Sisters Avenue—and I left her there while I went back to the garage. Some time in the evening she came down to the garage and said, "I do not like being in a strange place by myself all this time; I will come down with you." I said "Right-ho"; so she stopped in the garage. That was Saturday night, Saturday evening, and I went back to the flat, that is 33a Sisters Avenue. While we were down in the garage and when we got back to the flat it was arranged I should go and fetch a lot of stuff.

I will ask you about that later. What I was asking you was this: On this important night, the 26th September, did you go to Essex?—No; I did not leave town. I have not been out of town.

Is there any truth in all that statement that you went to Billericay?—It is a horribly concocted statement that has taken hours to consider. That is my opinion. There is not one word of truth in it, except this, that I did hire a van, and I did send Kennedy to arrange it, but what he said I do not know.

Now I will ask you about that incident about the hiring of the van. From whom was the van hired?—I do not know. "Townson" is on the van. There are two fellows in the business, and I really do not know who is the boss of that.

Who are the two?—They call it Townson & Co., and the man who did the office part——

Dadswell, is that the man?—I do not know that. I have heard the name. It was "Townson" they had on the vans. They garaged them in my garage, and I hired the smaller of the two.

It is suggested that the idea of that hiring of that van was to take you into Romford?——

Mr. Justice Avory—Mr. Lever, would you ask first who in fact hired it?

Mr. Lever—I think he has already told us; I will ask him.

The Witness—I actually hired it; I actually paid the money,

but it was done through the agent, or through an office man or office boy, whatever you like to call it. It was conveyed by Kennedy, but I hired it.

By Mr. Justice Avory—What do you mean by "conveyed by Kennedy"?—I arranged with Kennedy; I wanted the van, and I sent Kennedy up to see whether he could hire that van, and the answer came back, "Yes."

When did you send him?—I sent him on the Saturday morning, the 24th, I have found out since, of September.

To Townson, I understand?—Townson & Co.

Examination continued—Now, what did you hire that van for?—For the express purpose of going to East Ham, where my little daughter was, and bringing her back and a quantity of stuff, nearly a van full.

What is the address in East Ham?—It is 45 Colvin Road, East Ham.

What day was it that you actually used the van?—Early on the Sunday morning; that was the day after I had taken the place, and that would be the 25th.

By Mr. Justice Avory—How early, what time?—Early in the morning; I was to meet somebody else.

I asked you what time?—I am getting to it; I arranged to be down at the garage and meet somebody at six o'clock, and therefore I must have left the house before 6 a.m.

Examination continued—Did you meet somebody?—I did; when I got to the garage at six o'clock to get the car ready there was a young lad there waiting to come with me.

Who was that?—We called him Billy; but I suppose his name was really William Geddes.

Billy?—I always called him Billy, because he is a young lad.

What was his position there; had he to do with the garage?—His father is a blacksmith, and he wanted him to pick up the motoring as soon as he could, and I said, "Yes, any time you are on a holiday or a week-end you can come and learn," and in exchange for the learning I did not pay any wages to him.

You met him there, and what was done in reference to this small lorry; just tell us what happened?—I tried to get into the garage to wake Kennedy up, because he was sleeping in there, but he was too fast asleep, I suppose. It was shut from the inside, and I could not go in, not into the office part, so I started this van and drove it out and locked the garage and went to East Ham—that is, Geddes and I.

When you got to Colvin Road what did you do?—Of course, I made myself known. They knew we were coming—the lady there, that is my wife's sister, knew we were coming—and had got all the things ready, and I had only got to load it.

What did you load it with?—I loaded it with a bicycle belonging to the little girl; I loaded it with a lot of boxes which

had been packed with things for some time that had been stored there, and a big bed and bedding, and a lot of other private stuff, chiefly packing cases with a lot of stuff packed in them.

When you loaded it up like that where did you go?—Turned round and came back again straight to the garage—no, I came back nearly to the garage, and turned off and then went to Sisters Avenue.

When you got to 33a Sisters Avenue what did you do with the things?—My wife knew what time I should be back, and I unloaded the things and took them in.

Was any one there to receive you when you got back to 33a Sisters Avenue?—Yes; Mrs. Browne was there, and there was another lady there, but I did not know what she was doing; she was a stranger.

Have you seen her since?—I have seen her since.

What is her name?—Mrs. Kemp.

About what time was it when you got back to 33a Sisters Avenue?—Well, I do not know. I think it was five past eight when I passed the Plough clock, and I reached the new home, 33a Sisters Avenue, about a quarter past or twenty-five past eight, and then I went down to the garage—well, it took some time to unload.

By Mr. Justice Avory—In the morning you mean?—A.m., yes; it had taken about two and a half hours to go there and back.

Examination continued—Was the boy Billy still with you?—Yes.

Did you ever take that lorry on any other journey, further than you have told us to East Ham?—No; I have never used it again before or since.

What did you pay for the hire?—Kennedy told me the price was arranged at 7s. 6d., and 7s. 6d. was paid, but not by me.

These boxes that you brought back, just tell us what was contained in them with reference to this charge?—Well, some of the boxes were my wife's private stuff, and a lot of it was heavy with my stuff. It was collections of a previous works that I had had, a garage and repair shop, and you see there is a great difference in an ordinary mechanic and a motor engineer. I profess to be a motor engineer, and my instruments, I say, are far different to the average garage man; that is to say, I do better-class work, finer things, and I need different instruments to what the average man would use, and I have used them, and, as I cannot buy the things always new, I make a habit if ever I go to the Caledonian Market, or have the chance—there is a similar market in our own road—and if I see anything worth buying I buy it.

Let me ask you with reference to these boxes first. What articles were in those boxes in connection with the charge?—Inside that box there I had a number of instruments; amongst those instruments that I remember distinctly was a pole finder which

I valued very much, and an inspection lamp. May I handle the exhibit?

Including a pole finder; what is the other thing?—An inspection lamp for inspecting the inside of cylinders of a car when you do the plugs out. May I handle it?

Which is the one?—There it is, the one they have turned round and said it is an ear speculum. I want to show you how it was and how it should have been produced in Court. [Handed to witness.] You see they have altered these things. They have pulled part of an instrument to pieces and say one-half belongs to something else and the other part does not. Anybody looking at this can see it is all one part of the same instrument. This is not a doctor's instrument; you never see a doctor driving about with one of these, I know. Look here, I do not know whether the date is on the battery, I have not looked here, but the battery is old, the battery is five years old; the thing is five years old; I have had it in my possession for five years. When they produced it in Court they did not produce it as they found it; they pulled it apart, but Dr. Lovell does not say any part of this is his. He said his did not screw on, he had something that slipped on; this is the part he tries and says is his. Have I been and purchased something at a later date to fit this; this I have had five years, and it fits so beautifully.

By Mr. Justice Avory—Is that what you call the inspection lamp?—That is the inspection lamp for the purpose of screwing the plugs out of a motor car and seeing if it needs decarbonising or otherwise. It is to save pulling the engine to pieces unnecessarily, and this is the battery. That is one of the things that was in the box.

Examination continued—I want to ask you this question about that: You see it was suggested in the evidence that that little funnel-shaped part at the end had been altered by you in two ways, namely, by taking off a little bar that was originally on it and by soldering on a screw-thread thing; did you do either of those things?—I have not cut anything off since I had it, but I have soldered the ring, because where the thread had been cut on the inside of the screw top I think whoever turned it had cut the thread too deep, so that when I went to use it it gave way, and to put the thing back I had to solder it on again.

When was it you made that alteration?—I cannot say when it is—long ago. I have been using these things when I was tuning, and a lot of it I used in tuning cars at Brooklands for Mr. Aldridge, one of the racing men.

Was that last year or before then?—It is quite a year ago or more.

And since then has it been in that very condition that you find it in now?—Yes.

You have told us about that inspection lamp; what else was

there in this luggage that you were removing to 33a Sisters Avenue?—There was a metal tin full of small commutator files; it was full of little files when I had it, but there is nothing in it now.

Those are very, very fine files in order to file the commutator?—Yes; and the reason you have to keep them in a box like that is if anything rests on them they snap like a carrot, and that is the reason why I packed them away.

The commutator is a magneto?—Yes; there is a commutator or a magneto on any electric motor or generator.

By Mr. Justice Avory—Where did you say that was, in the money box?—Yes; if you call it a money box, in the same box.

Examination continued—Then the case was in that box?—Yes.

Had it ever got a rack in it for keeping the things separate, or was it always as it is now?—Just as it is now when I had it, never, never different. I have never seen it any different.

This is the case that was found by the police on a bench in your workshop?—On the work bench.

Was it in any way hidden from view to anybody?—No; left on the bench open; it would not be moved unless I was going to pack and carry the files away. While the box was on the bench there it was left open and the things lying in it.

What do you say with reference to some forceps that were produced?—Well, I had two pairs.

And where were the forceps?—In the money box. They are used for a specific purpose. Dr. Lovell is right in saying they were designed for doctors, but they were used for other things. I use them more particularly for putting the fuses in the jets and for getting about dynamos; you cannot get in with your fingers, they are too small, and a small screw. The reason when I saw them I purchased them was for this purpose: if I want to get a screw into a part of a car where I cannot get my fingers I can fix it in there and the screw does not fall off. Once I have got the screw in I can release it, otherwise you have to pull the car to pieces to get the screw in.

There are generally three or four jets in a carburettor?—Some have; some have one or two, but these are fitted to screw out the jets if when you are on the road you find the jets choked.

By Mr. Justice Avory—I understand all three of those forceps you found useful in your business?—No; wait a minute, my lord. These I have had for years in the box with the tin and the inspection lamp and the pole finder. These are practically new; I have only had these since I have had a lot of damage with my hand.

Give us some date?—Since March, not this year, March, 1927. Now I will tell you something about these. You can go to Woolworth's and buy a pair of tweezers very similar to these for 3d.; they are no good, they would not answer my purpose. I bought a better pair, and if you go to a shop called Tyzack's, you can go to Tyzack's and buy these for 1s. 3d., and they are specially made

with a rivet and a pin in the hole to stop the point from wobbling; an ordinary pair of tweezers will wobble about; when you go to grip anything you cannot get hold of it, so I selected a better pair, and, instead of paying 3d., I paid 1s. 3d.; they are for pulling bits of steel out; you have just got to put a screw in and you get a bit of steel out.

Examination continued—Where did you buy this?—At Tyzack's; they are big tool makers.

How much did you give for them?—1s. 3d. These are only since March, you know; it was the time when I was having a lot of trouble with this hand.

March of 1927?—1927, yes, and that is why I bought a better-class pair, so I could make sure of catching hold of the steel.

Did you on one occasion go to your brother-in-law's house at Buckhurst Hill?—I have been lots of times.

What is the name of your brother-in-law?—Mr. Finch.

I want you to tell us about a visit to your brother-in-law with reference to something in the charge; just tell us about that?

Mr. Justice Avory—When?

Examination continued—When was that about?—It was after March, and some time possibly in April, I do not remember the date. I only know it is only a short distance, and I can run over in the car, but one day when I went over there, I do not know how it came about, but anyhow, I happened to see a box of mixed chemicals and bottles of liquid, and I asked him what they were, and he told me not to let the children get at them, because he thought they were poison. I asked him to let me have a look at them; I smelt them and examined them, and found it was a box full of all sorts of medical stuff. One thing I took particular notice of was a long cylinder of liquid with a trigger on it like a syphon of soda, and that is the same thing I found them playing with.

Let him have that. Was that in the box, one of the articles?—Yes: you see it has a trigger on it; I did not know what it was at the time till I smelt it. If you get a thorn in your hands or a steel, they are tender, and they make you feel sick in pulling them out, and if you put some of this stuff round it and get the tweezers you can pull it out with impunity. I asked him if I could have it, and he said, "You can have the lot,": but I said I did not want the lot; and he said, "You can take them away; the children might have it," and I had this stuff in particular, with the first-aid box.

Did you take the thing?—I had the box. I did not take it down to the garage; I did not take those to the garage: this was not in the garage.

Did you take that from your brother-in-law's with the thing in it?—Yes; but it was put on one side because it was no use to me; it was only this I wanted, and I took it down to the garage to put with my stuff.

Frederick Guy Browne

Just look at that lint and those bandages; what do you say about those?—Well, this stuff Mrs. Browne bought in a box; it was in a square box when I kept it; it was to put hot fomentations on my poisoned hand, and this lint and stuff—I have been to two hospitals with the one hand, and I ought to have gone back; one was the cottage hospital. I went to two cottage hospitals on that in connection with my hand; I said, "I won't keep coming; I am at work"; and they said, "If it is all right, do it yourself"; they supplied me with the bandage, so I could do it without coming back. I went down to Sheffield—I do not know when it was, some time afterwards—Sheffield Hospital, and they gave me a package of stuff, and I leave it lying about, and I had to go to the chemist for some more.

Are those the bandages you got for your hand?—Yes; this is the stuff I had at the garage; I saved it especially for my hand for injuries. I cannot say this is the particular one; all I have seen have been wrapped up in blue paper.

Are any of those Dr. Lovell's?—I have had them too long for that: I have had injuries. I have had it stored away in the garage in a little box on the shelf. I had it too long before then.

Now, this roll of plaster. [Handed.]?—This is not taken out of my garage at all; this happens to be taken from Mrs. Browne. She visits—I do not know what you call it, something where they have their feet done—a place, and she goes there ever so often and she has her feet done. This is stuck down; they bind her with it.

Was that Dr. Lovell's stuff?—No; they took it out of her bedroom. It is nothing to do with it; it is not the same.

I will just ask you generally, were any of those ten or twelve things that Dr. Lovell says in his opinion were exactly like what he had lost—were they, any of them, Dr. Lovell's things; just answer yes or no?—It would be impossible, because I had them long before the date he states he lost his, so they cannot be one and the same.

I want you to tell us whether or not Kennedy was able to drive a car; just tell us about that?—He came to me. He could not drive a car when he first came, not to my knowledge, but then I taught him. I first taught him on a Rover car, but it is of no consequence, because he soon left off learning.

By Mr. Justice Avory—Do not mutter there; speak up; what are you saying?—I first taught him on a Rover car, but it is of no consequence, because he did not continue to drive it, but I taught him later on another one.

Examination continued—What was the other one you taught him?—In the garage was a Morris belonging to Mrs. Michels, and it was convenient, and she wanted waiting on, and it was not always convenient for me to bring it in and out and lock up afterwards, and I taught him.

Evidence for Defence.

Frederick Guy Browne

Have you or have you not seen him driving that Morris car?—I have.

What was it, a Morris-Oxford or a Morris-Cowley?—I cannot tell you if it was a Morris-Oxford or Cowley now; it was a Morris saloon, brown.

Have you seen him or not driving any other car?—Yes; he drove a Wolseley belonging to the landlord of the place.

That is Mr. Mistlin?—Yes.

What about a driving licence?—Well, he took a driver's licence after I taught him to drive the Rover. I told him it is no good him pottering about, he is sure to make a mess in the traffic: "You had better get a licence," so he got a licence; but there was something about the licence I cannot explain to you; I do not know about the truth of it; there was some query.

You saw the licence?—Yes; a little licence book like my own; they are blue—London Council ones.

Now, the Webley revolvers, the two Webley revolvers: where were those generally kept?—Well, I kept them when Kennedy was in the garage in the back room.

Is that the room in which Kennedy was sleeping?—Yes; where he slept and where he lived; there was a cooking range and comfort and everything. It was a little tiny place where I kept these other things on the shelf.

Now, tell us exactly with reference to the newer one; where did you get that, and tell us all about that?—I got it from a sailor down at Tilbury Docks for £3.

And about what time, what month?—Some time in April.

In April?—Yes.

Well, then, the other revolver, the older revolver, that you declined in your statement to give any explanation of: do you wish to give an explanation about it or not?—No; I am not going to say any more, except I have been dealing in the stuff, and I am not going to say where it came from or goes to.

That is the second revolver which was in the room Kennedy was sleeping in?—Yes.

Was there any difficulty in his getting access to them or using them?—No; they were there all night when I was out, whenever he was there.

Had you any knowledge that either of those revolvers went on an expedition to Essex?—It is not to my knowledge they ever left, except when I took one of them. I left them in the office and the ammunition out of reach.

When you were arrested on the 22nd January, you had just come in the Angus car from Devonshire?—Yes.

And in the car with you in a pocket at the right hand was the new revolver?—Yes.

And behind the driving seat the Webley?—Yes, quite correct.

Tell the jury why you had the revolvers with you?—I had

them for two reasons. At that time there was nobody left in the garage, and it was not safe for me to leave them there; they would have been found. I had no licence for them for a start, and it would also tell them I was dealing in the stuff, and that is another reason. The reason why the one was so handy in the pocket was I went down to Devon on the 18th; I slept in the car on the moors, because a man had not come down on the train I expected him, and I slept in the car. I do not take lodgings, I do not like strange places, and I slept in the car on the moors with the revolver handy, and that was there on the 18th.

By Mr. Justice Avory—The 18th of what?—18th January, 1928, that is this year. That was on the 18th, the night of the 18th.

You slept on the moors, I did not catch where?—On the moors at Dartmoor.

Examination continued—Did you send——?—Wait a minute. I went on the 18th, not expecting to see the man on the 18th, but early on the 19th; on the 19th he did not turn up, I was a day too soon; according to the way I read the letter he said, "Come on the 19th/20th," and I thought I was to pick him up on the 19th. I slept in the car on the moors. I sent a telegram to my wife on the 19th, and I said I was a day too soon. I think the police have got the telegram—I forget the exact wording—and it was to tell her I would be away that night, and again I slept on the moors in the car till the morning of the 20th, when I drove straight back to the garage into the hands of the police.

You told in your statement some experiences you had when you went on your journey?—That was the outcome really of getting the first revolver. I do a lot of driving; I do thousands of miles; I do more miles than the average man, because the average man will stop at night to put up and garage, and I do not: I keep straight on. I am not interested in stopping on the way. When I worked up in Great Portland Street, the firm I worked for was the Pytchley Autocar Co., and they used to entrust new cars to me to deliver, because they knew I should not go on the drink, and on one occasion I was on my way to Llanelly to deliver a car and teach a man, and I had been given just enough money for expenses, and I was stopped. I was signalled up. I often pick people up, or used to, and one night going along I was stopped, and as I stopped to lean over to speak to the man two other men came up and they took the money, and I had a job to get on. I told the firm about it. When I got to Llanelly they gave me some money, and I came back and brought the old one there for the new one, and I told the firm about it, and they did not say much about it, they only laughed; they did not think much of it; they thought I was frightened.

On the way down to Bournemouth did you have the same thing?—Yes; I was driving a car about of the same make, and

the same thing was tried about giving them a lift, but I did not stop, and I did not give them anything.

I want to ask you about Kennedy's statement. Is there any truth in that as far as it concerns you?—No; it is a fairy tale from the beginning to the end; it is a concoction. I do not know how it starts or how he brings it about, but I can tell you a very good reason why——

I do not want you to get excited about this, just answer the questions shortly. I want to ask you this: there is a statement in Kennedy's statement to the effect that you threatened to shoot him, and so on, more than once; is there any truth in that?—I never said that I would do anything except that if he persistently got drunk I would sack him; that is the only thing, if he gets drunk I will not have him in the place. He is a persistent drunkard; I tried all I could; I kept him short of money. I watched him from half-past nine to ten at night, and I could not stop him from drink, and I gave him the sack.

What was the cause of his leaving?—Drink, drink. The whole lot was drink.

Mr. Justice Avory—We have not heard he left you?

Examination continued—About when did he leave you?—Some time before Christmas. I will explain to you the conditions under which he left, if you desire to hear.

Do not go into anything except what I ask you, because you travel over so much ground; answer what I ask you.

By Mr. Justice Avory—You say some time before Christmas?—Yes; some time before Christmas; it might be three weeks before or something like that. The police have got the books; they will give the exact day, because his handwriting stops.

Examination continued—All right, so long as you are assisting us, that is all we can ask you. In January did he return to the garage?—Yes.

Did he appear to be in fear of your shooting him?—No. I was surprised to see him again, because I told him not to come near the place again on account of the drink, and he came back.

Did he come on more than one occasion to the garage?—He came twice. On the first occasion he insinuated would he come back to the garage, and I would not have anything to do with him. On the second occasion he wanted to know if he could come to Devon, the particular run I spoke about, to get a new man to fill his place, and again I said, "I cannot have you for drink," and he finished.

The only thing I have to ask you now is about what took place when you were arrested?—Yes.

I should like you if you can—you have heard the account of the officers as to what was said—to the best of your recollection to tell us what happened and what was said?—It is quite easy. I had just driven back 200 miles—it is nearly 200 miles from

where I started, that was Yelverton Station, and I had not stopped all the way on the road. I went straight into the garage. When I said I had not stopped, I had; I stopped to drop the man at Westminster and brought his luggage on. I went into the garage and saw a light in there, and found Mrs. Browne there. She said, " I thought you would be back soon," and I said, " I've brought the man's luggage," and I went out to get the luggage—that was a big case and a small case—and I put it in the office. I started talking to my wife, and, well, in rushed a man who was —I will tell you it was a detective, and behind him rushed a lot more. I really do not know what happened, because I had my back to him, but anyhow he caught hold of me and said, " I am going to charge you with stealing a Vauxhall car." I said, " I know nothing about a Vauxhall car," and that is all I troubled. Then he went on to explain I got a car and sold it, and then I knew the car he was referring to was a car I sold to a butcher at Sheffield. I then said to him, " Yes; I sold the car, but why say I stole it; I got the car and paid a fair price for it "—words very similar to that—" and I sold it "—and then I do not know, there was some argument about it, and I said, " Well, anyhow, I was going to make myself cocoa, because I have had a long run and I have had nothing." He said, " Well, wait a minute, I am going to search you." I had these cartridges in my pocket, and I did not want him to see them. I made an excuse I wanted to go to the lavatory, and I did not want to, I wanted to get rid of the cartridges. He got the cartridges, and I said, " That's done it now "; the atmosphere was changed. They were first of all going to charge me with a car that I could prove I sold legitimately, or got a fair price for it, but they could not prove anything against me. As soon as they got twelve cartridges from me I knew they would say, " Here is a man with twelve cartridges; he does not carry cartridges for any other reason than to fire a revolver," and I knew that had done it when they took the cartridges.

Have you got any licence at all?—No; not to keep them or to deal with them.

Were you dealing with them?—Yes; either collecting them or passing them on; but that has nothing to do with this case; I am not charged with dealing with firearms. Presently this revolver was brought in, and I said, " It is all up now," because I knew they would have me for having firearms and ammunition and no licence, and I knew it would lead to these others, and they would say, " This man is gun-running," and it was all up; they could have me for that alone.

Was anything at all said to you about Gutteridge's murder?—No; they said nothing about it.

Was anything said about it at the time of your arrest?—No; they did not say anything about that; they simply came on the

car, I knew I was now liable for gun-running, and that is the long and short of it.

You were taken away to the station?—Yes; that is quite right. The police said only two men took me. I know five took me. Anyhow, I went there; I was taken there in a motor car.

What conversation took place there, as far as you can remember?—They were quite decent; they put me in a big room with a big table, and they were laughing about something about, "You won't go for a 200-mile run," or something like that; there was a lot of chatter. They did not charge me with anything, and in the midst of it in comes another detective with a little revolver. He put it down on this table, and he passed some remark—I do not know what he said; I could not tell you exactly what he said. Anyway, they were laughing about it, and I said, "Oh, yes, you can laugh about it, you think it is a toy, but it would not only tickle you"—that is referring to this little baby revolver.

By Mr. Justice Avory—You said, "It would not only"——?—"It would not only tickle you"—they were playing with it—because I knew when I left it there was something in it.

Examination continued—Did you say anything to the effect that if they had stopped you in the car you would have shot five and saved another for yourself?—No; I had no occasion. Why should I say anything of the kind. On the other hand, why should I select five?

Tell us, to the best of your recollection, what was said, as nearly as you can remember?—When I was entering the garage I stopped the engine, and the detectives—they told me this after—told me they watched me get out of the car, they watched me start the engine and drive into the yard, and they were talking about it, and then one of them said to me, after these revolvers had been found—I think the man with the little plated one was there—he said, "A good thing"—it was the little one, they called him by his name—at any rate, he said, "It is a good thing I did not let you go near him when he was in the car." They explained they wanted to get me while I was in the car, and one said, "No, wait until he is in the garage." I did not hear this; this was explained to me. And one said to me, "What would you have done, Browne, if I had stopped you in the car?" I said, "I do not know; why?" Then they got this revolver, and he said something about "You are not the only one who has got these things. We can use gats"—that is an American name, and I thought they were used to American gunmen—and he said, "What would you have done if we had stopped you while you were in the car?" and I said, "I do not know." He said, "Perhaps you would have stopped us," and I said, "I have not been put to the test; I cannot say."

By Mr. Justice Avory—You are going so quickly I cannot follow you. What do you say?—He said to me, "What would

you have done if we had stopped you while you were in the car?"

I have heard that twice over?—Right. The next thing was, I said, "I do not know."

Examination continued—Was anything said about a machine gun, something about that? Go on and tell us?—There was something. I said, "I do not know," and something or other cropped up and I said, "I have never been put to the test"; but what filled in that gap I do not know; there was such a jumble. There was a lot of them larking about; I could not tell. Then it came to my knowledge that there were ten men who had come to arrest me—ten! I did not hear this until after, but it went on at the station, and all those ten men were armed, and they said, "Had you"—had you tried it, or something, had you attempted, I cannot remember the exact words, but it was to the effect that they would have blown me to pieces if I had shown any resistance. That is what it amounted to, but they were good tempered; they laughing about it, but it was to the effect, "There would have been little of you left, Browne, if you had used it." The absurdity of the thing, to think there were ten men to come and arrest a man because he had a revolver. I said, "Good heavens, ten; why, it would take a man with a machine gun to cope with you." Those were the words; ten to one was too much.

In fact, with all this great talk about shooting, have you ever fired a single shot from any of these revolvers?—No; I have never fired any shot, not from these revolvers or any other. I have had several years in the Army—not as a gun-man—I was an instructor in the Army down at Aldershot. I could instruct, but I have never had occasion to fire one; I have never had any occasion to.

One of the detectives is under the impression you had told him you had seen six men shot and never get up?——

Mr. Justice Avory—Do not say "under the impression"; he has sworn to it.

The Witness—What?

Mr. Lever—Yes, it was his impression. If he swore to it——

Mr. Justice Avory—It is something more than an impression.

The Witness—But, my lord, one cannot expect a man to swear to a thing like that, surely? I have never been out of England in my life. Can you tell me of any history where six men were shot down with a revolver?

Examination continued—Have you ever known of such a case?—No.

By Mr. Justice Avory—The only question is whether you said it?—I did not say it.

Very well, then, that is an answer.

Mr. Powell—My lord, I do not propose to ask this witness any questions, provided it is understood that I do not admit his allegations that Kennedy drove a car.

The Witness—Prove it.

Mr. Justice Avory—I do not understand your attitude at all. If you dispute, or Kennedy is going to dispute, what he says, it is your duty to testify it by some cross-examination.

Mr. Powell—Very well, my lord.

Cross-examined by Mr. Powell—You say you have seen Kennedy drive a car?—Yes.

I put it to you, you have never seen him do anything more than sitting on a seat in the garage yard and working up the mechanism?—I have seen him drive three different cars and deliver stuff. To my knowledge, I know the car went out, and I could not be at both ends at once. He delivered stuff from 2a Northcote Road, Battersea Rise, to 33a Sisters Avenue, Clapham Common.

When was that?—I cannot say the month exactly, but I should say it was within six weeks, or a little over, after he first came with me. He came with me, I believe, in June, and that would be some time in August. I have also had a complaint made by one of my tenants that garages her saloon car—a Morris—that she caught Kennedy out in her Morris car.

I suggest that is quite untrue. Tell me when was it you first tried to teach him to drive?—A little time after he came to the garage; if you refer to the book it will give you the date.

You cannot give any date to that?—I cannot state the date, no.

How long after that was it you say you tried to teach him to drive another car?—They were all about the same time, as I was pottering about in the garage.

It is very vague, you know?—It is vague. I will tell you why. The place is only half-built; it was not half-built.

Was it a matter of months?—Well, over all periods.

You state you first of all tried to teach Kennedy to drive one kind?—Yes; that was a Rover.

And then another?—That was a Morris.

What was the interval of time between the times you tried to teach him?—No interval at all. When you are thinking about driving a car, it is not only teaching him to drive, it is the car. I am working in the garage, and I am explaining to him.

After you showed him the Rover car did he say he could drive it?—He has driven it, but not straight off.

Do you say your attempt to teach him was a success, and then he was a driver?—I did not say I taught him; I was teaching him to drive a car.

How long after you started was it that he could drive a car?—Pretty quick.

"Pretty quick" does not convey much to me?—Three weeks; that is pretty well for a man who has not driven a car before.

Frederick Guy Browne

I put it to you that he has never driven a car at all?—You can put it to me. I will put it to you, why does he take a driver's licence out? People do not take a licence out to drive wheelbarrows.

Mr. LEVER—Just answer the question.

Cross-examination continued—I put it to you, you have never seen him with a driver's licence?—I have. I can tell you the hall he took it out at.

Mr. POWELL—My lord, there is a matter of law that I should have got your ruling on. I did not like to take a certain course unless I have rightly understood an Act of Parliament. I do not think I can make my submission, unless to your lordship alone.

Mr. Justice AVORY—What is the question? I do not understand your difficulty.

Mr. POWELL—It is a question of how far I can go without certain consequences.

Mr. Justice AVORY—In the cross-examination of this witness?

Mr. POWELL—Yes, my lord.

Mr. Justice AVORY—You mean putting some question to the witness, and whether you are entitled to put it; is that what you mean?

Mr. POWELL—There might be a certain consequence in putting that question.

Mr. Justice AVORY—It is too vague for me to deal with on that statement.

Mr. POWELL—I could make it quite plain to your lordship.

Mr. Justice AVORY—You may come round and tell me what is your difficulty. I do not want to disturb the Court by asking the jury to retire.

[Mr. Powell consulted his lordship.]

Cross-examination continued—Is it not a fact, Browne, that after the 26th September you told Kennedy that if he left you would blow his brains out?—I read all that in the statement. I never said nothing of the kind. I suggested turning him out if he persisted in getting drunk. The greatest threat I threatened that man was to clear out; he must work. Drunkenness is no good to me. That is the greatest threat I used to him. If I threatened to shoot, which I did not do, why should he, after he goes to Liverpool and I rigged him out as I did—why should he return voluntarily and visit me twice, which he persisted in?

I suggest when you made that threat you had a loaded revolver in your hand?—You can suggest just as you like, but I never did anything of the kind. I will make it more clear if you like.

Mr. LEVER—Just only answer the questions.

Cross-examination continued—I suggest it was because he was terrified of you that he stayed with you after the 26th

September?—He stayed with me because he could not very well go back to the Salvation Army Home, where I dragged him out to give him a start in life. That is where he was; he had nothing to depend on, and if I wanted to turn him out he had nowhere to go. I fetched that man from the Salvation Army.

Mr. LEVER—Do, please, just answer the questions, and do not go beyond that.

The WITNESS—I did not threaten him with anything but the sack.

Mr. POWELL—Does your lordship's ruling cover all the facts of Kennedy's statement?

Mr. Justice AVORY—Yes.

Mr. POWELL—If your lordship pleases.

Mr. Justice AVORY—You are entitled to cross-examine him about any of the facts which are there stated.

Mr. POWELL—If your lordship pleases. (*To Witness*)—I put it to you that on the 26th September you asked Kennedy to go with you to Billericay?—I did not ask anything of the kind. I had something very special to do, as you will find out if my wife is allowed to come; you will find out how busy I was.

Mr. LEVER—Just answer the question only.

The WITNESS—I did not suggest anything of the kind.

Cross-examination continued—Had you not by some means or other got to hear about a car?—I had not heard anything about a car of any kind outside my business; I was not buying any, nor selling, at that stage.

And that you went off together for the purpose of stealing that car?—I have just now stated I did not go out anywhere, as I was busy shifting into the flat.

And that the whole of the story told by Kennedy in his statement is untrue?—It is one pack of wilful or imaginative lies, either wilfully told or misled by some kink of the brain, I should think. I cannot explain myself. I cannot imagine anything outside of a penny dreadful that could have been written with so much care. As Chief Inspector Berrett said, it took him three hours to concoct it—he did not say "concoct," he said, "study it." I put it down to concoction. He says three hours thinking—thinking what he could say next.

You were not there, you know?—No, I was not. I have had it explained to me. I have had it all explained to me; I was not there.

As you were not there, I will not put several statements to you?—I do not know anything about it.

I suggest to you that you shot the officer?—Me?

Yes?—I see.

You were absolutely raving mad?—You mean to say you are trading on what I say now; you come to the conclusion that I am a little bit fiery, and I should say so. I have had three months' waiting. I have never been out, as I told the inspector in the

first place. I have never shot a man in my life. How could I shoot a man when I have never fired a revolver in my life?

I suggest you took the revolver out on the spur of the moment, and shot him?—I am not in the habit of pulling revolvers out on the spur of the moment. Has any one ever seen me pull one out on the spur of the moment, or seen me fire one?

Kennedy said immediately you had done that, "Good God, what have you done?"—That is very nice. It is all laid to me; they can absolutely tell you what I said before.

You got violently excited, and in state of frenzy?—I am not—who with?

Kennedy?—When?

When you went towards the officer he made a move to stop you, and begged you not to shoot again?—It is no good. How can you say I did this? You are first of all building on a rotten foundation; you are building on a foundation of lies. How can you expect me to answer such questions as these?

Did you not say, "I will shoot the bugger?"—That is all imagination on the part of the man; it is all lies. What can you put it down to?

When this unfortunate man lay on his back, did you not say, "What are you looking at me for?"—It is no good going on like that. If I have answered the first question and I was not there, how could I shoot an officer while he was on his back?

Then you shot him between the eyes?—I have never shot a revolver in my life. How could I have shot any man?

I will not go through it.—As I told Mr. Berrett in the first place——

I will put this to you, that you both got into the car, and you were then in a state of frenzy, and this man was frightened and did not know what he was doing?—You had better start on a different basis of fact. Scratch out the name of Browne, and put in the name of his confederate he was boozing with. Scratch out the word "Browne," and it is quite possible that statement is genuine; I do not know whether it is.

What statement may be genuine?—The statement Mr. Berrett got from him, but with this difference; you must scratch my name out and put a different one in, if he has made one.

I suggest to you he was under your control, that if he had not done what you wanted you would have blown his brains out?—He was not under my control at the garage.

Not at the garage, but when you shot the officer?—I have never shot an officer. I have never fired a revolver to start with. I have never been out in Essex, and I have never been on a long run with Kennedy.

And that, when you got back to the garage the next morning, he wanted to go away, but you would not let him?—The next morning when I got to the garage—I can recall it to a certain extent by the late time I was with my wife the night before—he

had the most of his opportunity while I was away to have a hearty good drink and a late sleep, and the consequence was the work was not done when I was a little late. That is how it is the man is tyrannised of me like this; I am the master, and he is tyrannised of me when he is drunk, but he is not tyrannised when he was not drunk.

Do you remember one day he said he would far sooner leave you?—No.

Did you not say, "You stop here and face it out with me. If any one comes here there will be a shooting match"?—My dear sir, you do not seem to understand. I had a difficulty to get rid of this man, not a difficulty to keep him. I found out my blunder when I had him.

You did not want him to go?—Yes; I wanted him to go a long time.

When?—If you want me to tell you the truth——

When did you first want him to go?—Very soon after I found out his habits.

Do you think if you wanted Kennedy to go you would have let him stop there longer?—Listen. Out of consideration, knowing him, I took him out of the street to help him; he was on the rocks, and I thought I would wait till I could start him, and as soon as I could start him I did everything, and put him on his feet, and what was the consequence? If you want me to explain to you, I will.

Mr. Powell—I do not want you to explain any further. My lord, I will leave it to the learned Solicitor-General. What I meant, my lord, was the difficulty I felt in asking any questions was that I was treading on the province of the Solicitor-General.

The Solicitor-General—My friend must not say that; I am taking my own course with the witness. I am not affected by his cross-examination in any way.

Mr. Justice Avory—Certainly not.

Cross-examined by the Solicitor-General—You said a moment ago you had never been out with Kennedy on a long job?—Yes.

You told us of one case where he drove the car from Clapham to Battersea?—Yes.

Can you recall any time when he drove a car about the country in the dark at night?—No; I cannot think anything of that, because if he was in a car with me at night I should take the wheel; I would not let him drive in the dark, I should think.

That is what I thought. I was going to ask you the question, if you two were in the car at night in the dark, you would drive?—Yes, I would drive.

When you were in the car at night did you ever trust him to drive you about the country at night?—I have not trusted the car to him, but I have not stopped him. You see after ten o'clock

Frederick Guy Browne

I leave my garage and he is in charge, but I know on more than one occasion when a car has been out, but whether he has driven it or somebody else I do not know.

I am only asking you about him. Can you tell me, yes or no, do you know of any occasion when he has driven your car, or any car with which you were entrusted, round the country at night?—No, not at night.

Now, I want to ask you next about some of these revolvers. You do not dispute, I understand, that both the Webley revolvers were yours?—I do not dispute it, no.

And you do not dispute that the Smith & Wesson was yours?—I do not dispute they were all mine; I will go to the extent of saying the ammunition as well.

I was going to ask you that next. All the ammunition was yours too?—It was.

We will begin with the ammunition. When did you get the ammunition?—I cannot tell you, but I am going to tell you this, after March, and possibly in April, 1927.

Did I understand you to say that you had been a rifle instructor?—No, not a rifle instructor.

What sort of instructor?—An instructor in the R.O.D.R.E.'s, but I have mended those sort of things.

What sort of mechanic were you?—I was a mechanical transport instructor, when the men were transferred when they started to alter petrol tractors on the same rails.

But in the course of your Army training I suppose you went through a certain amount of musketry drill, did you not?—I was never a soldier; I was a worker in khaki.

By Mr. Justice Avory—In the Labour Corps?—In the Royal Engineers.

Cross-examination continued—We will not pursue your military history any further. You know perfectly well these are service revolvers and service ammunition?—Yes, I know that.

Do you know amongst your store of ammunition there were several different marks?—Yes; I know there was all sorts of old stuff swept up. I know what it is; it is the clearings out of a rifle range. The whole lot is the clearings out of a rifle range.

When was the rifle range cleared?—I cannot tell you when, but I think it was April.

April, 1927?—Yes.

Somehow or other it came into your possession?—I purchased it, yes. Mind you, I am not going to swear to that particular date; I say I think it was in April.

If it was not in April, was it near April?—Yes. It could not be very far off.

Do you know a great deal of the ammunition was old bullet stuff?—Yes.

How did you know that?—Because of the type—the type of ammunition tells you.

Had you possessed any revolver ammunition before then?—Yes; I have always played with them.

You have had some ammunition before that?—I have always had something of the kind playing about with them, but I have not used them.

I am not talking about using them; I am asking you, have you always had revolver ammunition before this?—Yes; I always had some playing about. I have to admit, because I will tell you why; it is quite likely the police will say, "Were you not summoned for having in your possession so and so?"

Browne, don't. You have told me you had in your possession always ammunition?—Yes.

Have you always had a revolver in your possession?—Yes; I have really since the trouble.

Since when?—Since the beginning of the war.

By Mr. Justice Avory—Since 1914 do you mean?—Yes, 1914 and 1915. I will tell you; when I started to go down to South Wales on an occasion I was robbed.

Cross-examination continued—I was going to ask you about that; I was a little puzzled about that and when it was you told this story to the police. Tell us with regard to this pistol; only one revolver had been produced; the one found in the car at your right hand?—Yes.

And it was with regard to that revolver you were giving the explanation?—Yes; before I had seen it.

Yes; but it was with regard to one revolver which had been found in the car?—Yes.

You say before you had seen it, but you knew Bevis brought it straight into the room?—Yes.

With the cartridges in one hand and the revolver in the other?—Yes; to the door of the garage, and I am in the inner office.

But, so far as you had seen, it was one of your Webley revolvers?—Yes; I admit that one.

And it was a revolver, and you were told where it was found?—Yes.

And it was with regard to that revolver that you were making statements to Mr. Berrett?—I was referring to one revolver only.

Now you see what puzzled me about that statement, and I want to make it clear—no other revolver had been mentioned. What you said was that you were frightened into buying a revolver by something which happened to you in 1914?—I did not say I was frightened.

I withdraw the word "frightened," but you were induced to buy a revolver by something which happened to you in 1914?—Yes.

Frederick Guy Browne

You said it never happened again since 1914?—No.

And you went on to say because of that you bought a revolver in April, 1927?—No; in consequence of that I bought a revolver, and I have had one ever since.

I suggest you meant Mr. Berrett to understand that you had a series of revolvers, of which this one bought in April happened to be the last?—Yes; just go a bit further. I did not say a long barrel; these have not a long barrel at all. Did I not say I did not know where it is; did I not say I had hidden it?

I will read you the passage: "I have been asked by Chief Inspector Berrett to account for the Webley revolver found in my possession which was loaded in six chambers. I wish to say I have never fired the revolver since I first had it. I got it some time in April last. I gave £3 for it down at Tilbury Docks, from a sailor man whose name I do not know, neither can I describe him. He was an ordinary seaman. It was unloaded when I bought it. The ammunition with which it is loaded I obtained from another man, together with a number of other cartridges shown to me, which were found in my hip pocket. I knew the man I got the ammunition from in the Army. I don't wish to say who the man is. The ammunition is very old in type, and was made previous to the war. They are in the same condition now as when I obtained them"?[4]—Yes.

Then you go on to describe——?—Is that the finish of it?

That is the finish?—Right.

After that you say, "Some six weeks after that occasion," that is the occasion when somebody tried to stop you?—Yes.

"Some six weeks after that occasion, when going to Bournemouth with another car, the same kind of thing happened to me with a man calling on me to stop, but I declined on this occasion to stop. After this second occasion I made up my mind to be armed when taking cars to the country, and I purchased a revolver with a long barrel, but I had no ammunition"?—Yes; is that the end of the statement.

Yes, for this purpose?—That is the end of it, yes.

You mean the revolver with the long barrel was something different from the one you are describing?—Yes; I will have to go a step further. The police took it away from me afterwards, and when I got another I had to hide that; they know it.

When did you get the other Webley and Smith & Wesson?—Since.

Yes; "I have since bought two"?—I have got them from time to time; I cannot tell you the exact dates.

Try?—It is no good me trying. I will tell you this, I have got them all between——

I am not in the least interested in any other revolver. I am

[4] It is uncorroborated statements such as this that hang murderers.

not interested in other revolvers. Tell me when you got that other Webley?——

By Mr. Justice Avory—What is that you are looking at?—I am looking at a date.

Who wrote it?—I did, in the dock.

You mean during the trial?—This morning. They take them away from me when I go in.

Does that enable you to answer the questions?—I was trying to think of some dates.

You anticipated you were going to be asked this question, and you made a note for the purpose of answering it?—You can read it, my lord, if it is of any assistance; you can read anything there.

I thought you were going to answer the questions by the aid of the notes?—I jotted down the dates when I first started. I bought the revolver in April, and I was arrested in January this year, and between those two dates I bought all those revolvers.

Cross-examination continued—Let us try to get a little closer to it than that. Try and tell me not the exact date, but about when you bought the revolver, if you did buy it, or where you got it?—I could not tell you; if I guessed, I could only guess.

Try about the Smith & Wesson?—It is no good. I could not tell you. I cannot say. I could not tell you the month I bought these at all, if ever I bought them. I bought them whenever I got them; if I had the chance of buying fifty I bought fifty.

Let us go on to another one. When did you get the automatic? That is a little different from the other?—When did I get it?

Yes?—You are certain I did get it?

No; I am asking you did you not get the automatic?—I did not say I got it.

No, I am asking you: just answer the question. Did you not get the automatic?—I did.

Did you give the automatic to Kennedy?—I did.

Did you give the automatic to Kennedy before he left?—I did.

When did you get the automatic?—On the 7th October, or thereabouts; it may be a day either way.

By Mr. Justice Avory—You say you got it?—Yes: on the 7th October, or perhaps a little after; I am not going to say the day. You understand it is an illegitimate thing we are buying, and there were no books kept to the effect.

Cross-examination continued—Very well, the 7th October. Now, tell me, when you gave the automatic to Kennedy, did he give you any weapon in exchange?—I expect he did. I expect you know what he gave me: what is the good of going beating about the bush when you know jolly well what he gave me for it.

Now, Browne, will you answer my question? Did Kennedy give you any weapon in exchange, and, if so, what?—Yes: you might as well read it out from the statement: you might as well read it.

Frederick Guy Browne

By Mr. Justice Avory—Will you answer the question?—It is a waste of time; the answer is there before it was put.

What did he give you?—A revolver.

What did he give you in exchange?—That revolver. He had a new revolver and I wanted it, and I got an automatic and so we made a "swap," and that is the long and short of it; he had got a new one, and I had an old one, and I wanted the new one, and so I gave him the automatic.

Cross-examination continued—I want to get that a little clearer. Was it any of the three revolvers we are talking about here?—Yes, it is; of course it is.

By Mr. Justice Avory—You must answer the question properly?—I am sick of it. I have been there for three months for no grounds.

Mr. Justice Avory—You must answer the questions properly, or I shall order you to return to the dock.

Cross-examination continued—Tell me quite quietly what weapon you say Kennedy gave you in exchange for the automatic?—He gave me the new revolver. What is the good? There is an old one and a new one; I wanted the new and he gave it to me, and I got it.

You know, Browne, let us understand what you mean about this. On 7th October you say that Kennedy handed you the revolver?—Which revolver?

The one that the shots were fired with?—I said nothing of the kind. It is no good your twisting it round like that. I said I got the automatic on the 7th October. Is that correct?

By Mr. Justice Avory—When did you give it to Kennedy?—That is a different thing altogether. I did not mention anything about giving it to him.

Answer the question; when did you give that to Kennedy?—Before he went to Liverpool.

How long before?—Not long.

How many days?—I could not say. I could not say how long. I knew he was going, I suppose.

Cross-examination continued—Do you mean in December, when he left you first?—He went to Liverpool in December, three weeks before Christmas.

Yes?—Some time before that.

Some time before that you gave him the automatic and got the new revolver in exchange?—Yes.

Having yourself obtained the automatic on the 7th October, is that right?—Yes, or thereabouts; I do not know the exact date.

What had happened to the Webley between April when you bought it and December; in whose possession had it been?—In both.

What?—In both possessions. When Kennedy gave it to me it was his first and mine afterwards, so it was in both our possessions.

You bought it yourself in April, 1927?—Which; which did I buy in April, 1927?

This Webley?[5]—Who said I did?

By Mr. Justice Avory—I do not think he said he bought that one?—I said I bought one that went rusty. Is there any sign of rust on that one? You look at the revolver with the rust on it, beginning to go rusty.

There is really no confusion about this at all?—Then why mix them?

Just follow: the only revolver which had been shown to you at the time when you made the first statement about buying the revolver in April, 1927, was this Webley, which had just been picked up by Bevis out of the right-hand pocket of the car?—It was a revolver, a Webley revolver. There is ample proof of that, your lordship. Surely you can see by the very next words I uttered.

By Mr. Justice Avory—You are confusing yourself by being in a hurry?—I am not.

Just listen: the revolver which was found in the pocket of the Angus car, and which was brought into the garage was this one?—How am I to know that?

You must take it it is so?—It is not very fair to me, is it? "I must take it for granted."

It has been proved that it was this one. Your attention is called to the fact when you are asked by the inspector to account for that particular revolver you said you had bought it at Tilbury Docks on——?—The next thing shows I know what I was referring to. I knew there were two revolvers in the case, and I was referring to the one that was going rusty, and why do I refer to the rust?

Cross-examination continued—Just follow me: if there is any mistake you must have the benefit of it, but are you saying to the jury that you do not know which revolver it was that was at your right hand in the car?—Yes; I did not know which revolver it was, because they are both alike, except this is older than the other. They are identically the same. They were both kept in the back of the car, but kept hidden in the back of the panel, but when I arrived at Devonshire and went to sleep I took one out. I did not take any notice which one it was; I had no occasion. I put it in the pocket, and there it stopped till the police came.

Let us get it clear: I do not want you to be trapped by any mistake, if mistake was made. What you mean is that the one you identified as being this one here, bought in April, 1927, was the one at the back of the car. Is that right?—You let the jury see the revolver, and the very next time I open my mouth

[5] The pistol with which Gutteridge was shot.

Frederick Guy Browne

shows what I am saying. I am referring to the old revolver which began to go rusty, and I had to oil it. Will you, for my benefit, show it to the jury to show the distinction? You are making use of the statements; then why not use them to show my statement is correct?

Very well, of course, at the time when you identified that, as you have already told me, you were only talking about one revolver, and you did not know, of course, at that time that it could be proved that this cartridge which was found had been fired from it?—That part does not interest me; I had nothing to do with firing. Why should I be interested? I do not care whether the revolver had been firing cartridges or not, it is nothing to do with me.

Do you swear that now?—I am on oath.

Are you swearing now that you had not got this particular Webley at the end of September?—September?

Yes?—September? [After a pause]: I got one in April, did I not? I have told you that that is clear. Some time after that I got an automatic; I gave you a date.

Let us get it clear. The revolver which was in fact found in the right-hand pocket—where was that revolver, so far as you know, on the night of the 26th-27th September, 1927?—I expect it was in——if it was in Kennedy's possession it would be in his bag of tools, I expect. I do not know. It was not hanging up where the other one was I kept. The other one was hanging up in the garage, the old one. I cannot tell you.

You want the jury to understand that the revolver was not in your possession on the 26th September; it was in Kennedy's. Is that right?—I do not want them to understand anything of the kind, because I did not know it was in Kennedy's possession.

Do you want them to understand it was not in your possession?—Yes, not in my possession; I have only one revolver, and it was going rusty, and they have not looked at it yet.

Tell me, when did you first see this Webley?—Shortly after Kennedy came, and I do not remember when he came. They are not assisting me; they have got the books. Why do they not give me the date?

I can tell you; Kennedy came about the end of June. Tell me when you first saw this revolver in his possession?—After he got more familiar with me. That is all I can tell; and that would take about a month, I suppose.

Try and fix the date; I do not mean the day of the week or the month, but which month. When did you first see it, and where was it?—It was in the garage.

Where?—In Kennedy's hands; I do not know where he got it from.

Before or after the police constable was murdered?—Oh, before that.

Mr. Justice Avory—Mr. Solicitor, there is some confusion here with the evidence given in chief by the witness, unless my note is entirely in error. My note of what he said in chief is, "I kept the two Webley revolvers at the garage. I was referring to the older when I said it would go rusty; I was referring to the newer one when I said I got it from a sailor"; you said that in your evidence.

The Witness—I did not; I said the one that began to get rusty I got from the sailor; if you have twisted it round it is not my fault.

Mr. Justice Avory—Do not talk to me about twisting it round; I have taken down what you said.

The Solicitor-General—Mr. Roome's note is, "The one I got in April was a new one. The one I got from Tilbury was a new one for £3 from a sailor."

The Witness—Is that how you are going to have it?

Mr. Justice Avory—And he added, "That one I have had from April."

The Witness—Which one is that, the one that went rusty?

Mr. Justice Avory—I am not going to bandy words with you.

Cross-examination continued—You see the object of the cross-examination which I have been putting to you for some ten minutes, and I am afraid it is difficult to follow you, but I will put it to you plainly to show the jury that this suggestion that Kennedy had the revolver on the 26th September is an after-thought invented since you knew the significance of that revolver?—By me?

Yes?—Oh, I see. I did not understand what you were trying to twist round, but it is not anything of the kind.

I am going to suggest to you the date when that idea came into your head, because I think it is fair to Kennedy. Your wife visited you in prison on the 10th April?—Yes.

Do you know a family named Currie in Sheffield?—Yes.

Did you write something in invisible ink?—Yes.

On the back of the letter?—Yes.

Which your wife was going to write to a member of the Currie family?—Yes.

I think, as a matter of fact, your wife wrote to Miss Mabel Currie?—Yes.

Who is a child of eleven years of age?—Yes.

And told her, amongst other things, that she had not made her fortune on the Grand National, and on the back of that you wrote in invisible ink an inquiry?—Yes, about this particular revolver.

Yes. Let us see what it says. We had better have the original. [Produced.] Look at the back where the invisible ink has been developed. "Can you tell me the date when Pat. Kennedy divided a small heap of jewellery in two, and I tossed up to see which I should take"—in brackets "he the other"; "Will you let me know by return the date it was that I exchanged revolvers

with Kennedy after he may have shot P.C." blank. "Just quote date as near as possible. Fred."?—Yes.

That apparently miscarried, and you sent another one to the same effect on the back of a letter written on the 16th April?—Yes.

I want you to tell me, was it then for the first time that it occurred to you to suggest that you were not the man who possessed this Webley on the 26th September?—No; I did not suggest anything of the kind.

If I may just ask you one other question before you go on; with this now in your mind, would you mind telling the Court how you came, not only to make misstatements to Mr. Berrett, but in the evidence-in-chief which my lord has read to from his note?—About what, the revolver?

That you had the revolver from April onwards?—I do not know; I had the one at the beginning go rusty, and that is all I am referring to. Why should I add to that statement at the time, and this is long before I was charged with the crime? Why should I add to that part? You do not dispute it is in the statement, and you do not dispute that Webley there has not gone rusty; do you doubt that? Why do not you let the jury see the two revolvers.

The jury will see all the revolvers and see the statement, anything they want to see. I want to know again now, contrasting what you have said with what you wrote in invisible ink on the 11th April, why even in your evidence to-day you state you had got this particular Webley on a shelf, if I remember right, together with the other Webley revolver?—Now you are going it.

From April onwards?—I do not say I had two revolvers in April at all; I never said anything of the kind. You cannot find where I said I had two revolvers in April.

I may be all wrong, but my recollection is this, that you said you kept them in the room where Kennedy slept?—In April—he was not there.

No, you kept them in the garage in the room where Kennedy slept—both revolvers?—Well, I am not denying it, am I? I told you the date when I changed revolvers, and since that date they were not kept in the garage except when he was away and I was away. What is the date? I told you the date, did I not? Did the answer come back to that letter giving the date?

Mr. Justice Avory—You must not ask questions.

Cross-examination continued—The date your jewellery was divided was the 7th October?—Where did I get the revolver from? That was the cause of the question being asked.

I do not want to know anything more about that; you asked me about the date?—I told you.

The date was the 7th October?—Yes.

Is there anything else you want to say about this particular Webley?—I told you I did not have it before that date.

Room in Browne's garage, where he was arrested.

Before what date?—The 7th October. Since the 7th October I kept the two of them in the garage.

What? You kept the two Webley revolvers in the garage since the 7th October?—Yes; until Kennedy went away.

I thought you told us just now that Kennedy did not give you the second Webley until just before he went away, and when he gave it to you it was in exchange for the automatic?—You call it when I got the automatic. The 7th October is when I got the automatic.

What you said a moment ago was you kept the two Webley revolvers from the 7th October. What I am pointing out is that what you have sworn is you did not get the second Webley until Kennedy left in December, and then he gave it to you in exchange for the automatic?—They were kept in the garage just the same. Whether it belonged to me or Kennedy they were both kept in the garage from when I first saw them after I got familiar with him, and although he did not give it to me it was kept in the garage after that, and even before that; but after I did not sell them they were still kept there. They changed ownership, but they had not changed position.

Was it ever moved?—When Kennedy moved I suppose they were.

Did you see it moved at any time at the end of September?—I do not know they were moved; they were hanging on a nail with a soldier's coat over the top of them. I did not see them every day; I did not take particular notice.

By Mr. Justice Avory—Were they both hanging on one nail, do you mean?—No; they were hanging up behind soldiers' coats.

Were they hanging on separate nails?—Of course they were; they were too heavy for one nail, two revolvers of that weight.

Cross-examination continued—Now, tell me, why did you buy artery forceps?—Simply because they are long-nosed pliers, and pliers were more adapted to the job, and they were cheap.

I was going to ask you about that artery forceps. Surgical instruments are rather more expensive than the ordinary forceps that you buy in a shop?—No, not where I bought those; I bought those, as I said, from Caledonian Market years ago, and they are cheaper. They are far better steel; they are more useful, that is to say, they answer the purpose better than a pair of pliers made of sheet iron.

You bought them because they were cheaper?—Seeing the size of them, I had a good use for them if I could get them, and I bought them because they were cheap.

Just give me the Sanctylight. [Handed.] I want you to tell me about this. You said you bought this battery at least five years ago?—Yes.

Do you say at the time you bought it, not that some cap was

on it, but that that particular cap was on it?—Just on it, except this, that it was broken and I did put it on.

Yes, I know. Do you say that that particular bit of tubing was attached to this light when you bought it five years ago?—Yes, I do say so.

I am not talking about the screw?—I am talking about the lot.

I am talking about this part of it?—One cannot buy one without the other.

I understand that. Now, do you say five years ago that bit of metal that is on it was on it when you bought it?—Yes.

It is not the same metal as the lamp itself?—It is.

You think it is?—I am positive. If you test it with a saw and a file it will show you it is, and I can show you the metals.

You have never seen that in the form of an ear speculum; you have never seen it as a separate thing?—No.

You did not tell us, when you were giving evidence about the lens, where you got the lens?—I paid fourpence for it.

Where?—Down York Terrace, and that was from a Disposal Board, and that was since I started the garage.

When?—Since I opened the garage about April. When I started to collect the stuff all together I went down there for two boxes, and I saw it at the shop.

What did you want it for?—I use that when I am getting out tiny splinters under the nails, to magnify; it was all kept together.

Now, about the bottle of ethyl chloride. I understand you to say it was in this tin?—Yes.

The tin in the shape of a book?—Yes.

These things were in it too?—All, I think, except those bottles—those bottles were lying on some medical books.

These things—they were both in here?—They were all jumbled up. There is a little brown box. You see that little brown box like a cigar case; that was outside with this; it was all loose in a hamper. These things were all jumbled up and some books.

Where was the ethyl chloride?—In the box.

From whom did you obtain this book-shaped box?—From my brother-in-law.

You observed the title of the book; you noticed that, did you?—No, I did not, only it is a medical book.

It appears to be a treatise on weapons of precision?—But that is not a book; that is a tin.

Weapons and precisions——?—That is not the book I am talking about; I say the medical book. I am not referring to that as a medical book.

No; but you say it was in this "tin shaped like a book," the actual words were?—It was in the box. Put the ethyl chloride in the box and you will see.

Would you mind putting it in for me?—Do you say it will

not go in? Is that what you are trying to twist round? If it does not go in it must——

Does it go in with all those other things?—I do not say this was in it or this. I told you how it was, and this is how it was packed up. There was some cotton wool, but it has gone.

What else was in with the ethyl chloride; just put the things in?—I do not know; it was packed up. It was in a tin box. What was actually in it I do not know. It might have been opened by my brother-in-law and turned out; I do not know. There was more than that in it. [The witness examined the box.] I know when I opened it it was quite full; I do not know whether it was only packed with cotton wool, and perhaps that was the matter. There were other bottles lying idle—I mean lying loose.

Very well. Now, I want to ask you about one other thing, Browne. You have told us about some of the statements you made when you were arrested; I want to ask you about one in particular. When he brought the revolver in, whoever it was, and said that it had been found in the pocket of the car, did you say, "Ah! you've found that, have you; I'm done for now?"—Yes.

You did; what did you mean by that?—They would have me for trading in firearms. That was all. I had no charge against me. They could have taken me, that is true, but I should have come back; I should have known where I got the car from and all about it, but I could not explain how I was in possession of firearms and ammunition and no licence, and trading in them—not a legal one.

You have mentioned several times about trading in firearms. Just tell me why that Webley revolver was loaded in the car with six cartridges, and why the other one was also loaded with six cartridges in the panel behind the seat. Was that for threatening? —Why they were all loaded?

Tell me?—It keeps them better from rust. They said they were heavily greased, and if you keep them heavily greased and loaded it keeps them free from rust, and that is what I have done. I have kept them loaded, and they have not gone rusty since. That is one of the precautions against the rust.

Re-examined by Mr. Lever—I want to ask you one or two questions, and they are with reference to these two revolvers. Did you identify the two revolvers by their numbers as exhibits?—No, I recognised them by their appearance; one is new and one is old. One is all oxidised and new, and the other is not.

Just follow me. When you took this Angus car down to Devonshire, where were those two revolvers when you started out on your journey?—Both in the panel at the back of the car.

When you stayed for the night what did you do with the revolvers, or either of them?—I made a sort of bed of the rugs and coats I had got. They were in the big cupboard, and they are not concealed, and I took one out and put it down.

Frederick Guy Browne

Did you notice or have any idea which of the two you took out?—I did not take any notice, and I will tell you one thing; it was as much as I could do to get down to the moors at all, because the fog was so thick I had to crawl.

Just answer my question. You say you did not notice which of the two you took out?—I did not take any notice.

It might be the old one or the new one?—It might be either.

What did you do with it when you took it out?—I put it in the driver's seat.

When you got back did you know which was the one in the pocket and the one at the back?—No; I never looked at it. I had no use for them on the journey.

When you were arrested, where were you?—In the inner room.

When Bevis came in with the revolver from the car, how did he show you the revolver he had taken from the car?—He never showed it to me. To tell the truth, I never saw it; the place was full of police officers, and one officer was saying about collecting up the revolvers, only he used the word "gats," and this man in the middle walked as far as the outer door.

Where were you then?—I was in the inner office.

Is that all you saw of the revolver at that time?—Yes; he said what he had found: "I have just found this in the car."

Were you able to see whether it was the new or the old revolver?—I could not tell it was a revolver really; he had his hands out, and the office was full of men. I could not say that really.

When you made the statement about buying a revolver in April, what revolver were you in your mind referring to?—The old one that became rusty.

You went on in your statement to say it went rusty?—Yes.

Did the new one get rusty?—No, it could not; it is oxidised, you see.

So it was the old one you were referring to?—Yes.

When you made your further statement as to another revolver, was that the old one or the new one?—When I said that I was referring to the new one.

So in your first statement you were first referring to the old revolver, and in your second statement you were referring to the new revolver?—Yes.

You declined to give the name of the man you got it from?—Yes; I was not going to say anything about it; I did not know what the police knew.

Leaving out the question of the old revolver, I want to ask you about the new revolver. As near as you can tell, when was it you got the new revolver?—I bought some stuff from a man, and among this stuff were two revolvers; one was the electro-plated one, and the other the automatic one; I do not know the date of that, but I wrote to my wife——

Never mind about that; you bought two revolvers?—Yes; one

was the automatic one you have there, and the plated one, and I exchanged the automatic one for the new one, with Kennedy.

Which is the one you got from Kennedy? The oxidised Webley?—Yes.

That is to say, the newer one of the two we have been speaking of?—Yes.

I want from you the answer, as near as you can tell, when was it you got that new revolver from Kennedy?—After the 7th October when I got the automatic.

The new revolver was when you got the automatic?—Yes; I did not do the change the same hour I got the stuff.

This letter which has been written, which has been read, was written originally in invisible ink by you?—Yes.

That is inquiring from some one when the exchange was made?—That was only a name I asked my wife. The prison officials read everything and test them.

That was the letter by which your wife was to get the information about this exchange?—Yes; I did not remember that date.

You became the owner of the new Webley, and Kennedy became the owner of the automatic?—Yes.

Had you been the owner of that new Webley until some time after the 7th October?—I am awfully sorry, I was not listening to what you said; I was thinking of something else.

I quite understand; you told us that on the 7th October you got the automatic, and that after that date you exchanged the automatic with Kennedy for the Webley?—Yes, I did. I said that before.

I am asking you now, on this important date, the 26th September, when the tragedy took place, to whom did the Webley belong?—It was Kennedy's property, but I saw it in the garage hanging on the nail.

I want to know, apart from the question of ownership, where used it to be?—It was kept in the garage, and over the bed is a row of clothes, and you keep them there a little bit out of sight.

Was Kennedy sleeping in the bed?—Yes; and if the nails gave way they would have fallen on him.

And, as I understand, on those nails there were the two Webleys, the old one belonging to you and the new one belonging to Kennedy, and they remained there till the exchange was made?—Yes.

Is that all you know about those revolvers?—Yes—not all.

Enough perhaps for the occasion?—Yes; and the only thing I do know is before I got the automatic I could not get Kennedy to exchange with my old one.

Tell us about that. Had you offered to exchange with Kennedy?—Yes; and I wanted to buy it from him. They are both so much alike I can only explain the difference that one is rusty.

Frederick Guy Browne

We call them the old and the new one. You were saying you were wanting to buy a revolver from Kennedy; which one?—The new Webley.

When was it you were trying to buy that from him, about what time?—First of all, when I first saw it after I had got familiar with him.

That is to say, after he came?—It might be in July.

Would he at that time sell you that revolver?—No; he would not, and did not.

So the ownership remained, you owning the old one and Kennedy the new one?—Yes.

It was not until after the 7th October he acceded to the exchange?—Yes.

And in the meantime the tragedy had taken place?—Yes.

Of which you swear you know nothing?—I know nothing about that.

Mr. Justice Avory—You are making a series of statements and asking your witness to agree with them; that is not the proper way.

Mr. Lever—That was the evidence that was given.

Mr. Justice Avory—If it was, then there is no need to repeat it.

Mr. Lever—There is one question I ought to have asked in chief, perhaps, if I may ask it now, it is quite a minor matter, and that is whether Browne ever wore a light fawn-coloured overcoat—there is something in Kennedy's statement and I forgot it. (*To the Witness*)—What do you say about that, a light fawn-coloured overcoat—raincoat?—I wear a light mackintosh, but I usually wear a motor coat.

This is the point I want you to answer quite truly. Kennedy says that on this night you wore a light fawn-coloured raincoat. I do not know whether you had or have such a thing. Had you such a thing at that time?—I never wear light clothes at all; I get them so dirty and greasy. I do not have them in my house at all. I particularly do not buy light clothes; they show the dirt.

Had you a light coat?—No.

By Mr. Justice Avory—Do you say you have a mackintosh?—I have some mackintoshes.

Light colour?—Yes; there are some light ones; they are light.

The jury some time ago wanted to ask you about that pair of forceps which have been filed? Did you do the filing?—Yes.

What for?—To get them into the carburettor which I use them for.

The jury want to know whether that instrument now would fit any lock on this car?—I do not quite understand; what sort of lock?

That depends on what sort of lock it is. You know what sort of lock was on the car. The jury ask, would that instrument, now

it is filed, fit any lock on the Angus car?—Perhaps they mean the jets; is that what they mean?

The Foreman of the Jury—The cupboard, my lord.

Mr. Justice Avory—I know what you mean.

The Witness—I could not say. I had a key of the cupboard; the police have it now.

You have a separate key?—Yes, along with my other keys.

One other thing I would like to ask you; what time do you say you got back to the garage on the morning of the 27th September?—Which morning—when I went with the van. I do not know which morning you are talking about really yet.

Just think; try and remember. The morning of the 27th September last year?—That would be after I had helped my wife one night unpacking, and I was a bit late going to bed, and late down at the garage. I do not know. I might have been down there a little before nine o'clock.

Did I understand you to say on that morning you got there you found Kennedy still asleep?—No, your lordship, there is a little bit wrong there; I am talking about when I went with the boy to the garage to get the van. That was on the 25th.

On the 27th when you arrived about nine o'clock was Kennedy there?—Yes; I did not remember anything unusual, so I should say he was.

Did you look to see if he had apparently slept there or not on that night?—I took it for granted he had; I did not take particular notice. Why take particular notice?

Did you notice whether the Webley revolvers were there?—I did not see that they were both hanging up because of the clothes, and I never looked for them.

Did you go into the inner office on the morning of the 27th?—Yes; later on in the ordinary way when lunch time came.

You did not notice whether both revolvers were still hanging up there?—No; I did not take any notice of them.

[The accused returned to the dock.]

William Geddes, examined by Mr. Lever—I live at No. 18 Rathbone Road, Battersea Rise. I am a schoolboy between twelve and thirteen years of age. I know the garage at Northcote Road. I am called Billy there. My father is a blacksmith nearby. I used to do some odd jobs now and again for Mr. Browne at the week-ends, learning what I could about motor cars. I remember one Saturday at the end of September Mr. Browne asking me if I would go with him next morning to East Ham, and I agreed to go. I met him early in the morning of that day. It was a Sunday morning towards the end of the month. I met him at the garage quite early in the morning, and we got on to the lorry belonging to Mr. Townson. Mr. Browne drove the lorry, and I sat by his side. We drove to a place in East Ham, but I do not remember

the name of the road. When we got there some parcels and a box were put into the lorry. We had a cup of tea there, and Mr. Browne drove the lorry back to 33a Sisters Avenue. There was also a little girl on the lorry. It was about half-past eight when we got back to Sisters Avenue. We had started about five minutes past six in the morning. I saw the things taken out of the lorry and put into the house at Sisters Avenue. I did not see a Mrs. Kemp there at the time. The boxes and the bicycle, and so on, were taken up to the flat. I was with Mr. Browne the whole time; we did not lose sight of each other.

Mrs. Annie Kemp, examined by Mr. Lever—I am a married woman, and I live at 33a Sisters Avenue. I remember one Sunday morning at the end of September being there after the Brownes moved there. I went downstairs to the scullery and saw Mr. Browne coming into the passage with a parcel that looked like a bed. It was about half-past eight or nine o'clock in the morning. I did not see any lorry. I saw the little girl coming upstairs, and I spoke to her. I did not see the bicycle.

Cross-examined by the Solicitor-General—I was living at 33a Sisters Avenue in September. I am a lodger there. The Brownes had only been in the house from the Saturday at the end of September onwards. I occupied the top front room, and Mrs. Browne occupied the back room. I could not tell you whether Browne ever slept away from home. I do not know of any occasion when he was away for a night.

Re-examined by Mr. Lever—You do not remember his being away for a night at the end of September, or part of that time?—No.

Lillian Miller, examined by Mr. Lever—I live at 167 Lavender Hill, Clapham Junction. I am a cashier employed at the Globe Cinema, which is next to the garage in Northcote Road. I knew Browne and Kennedy pretty well. I never saw any revolvers or firearms in Browne's possession. I remember Browne once having his moustache off. I cannot remember the date. His eyebrows and eyelashes were also singed.

Arthur Theodore Finch.

The Witness—I wish to affirm, my lord.

Mr. Justice Avory—On what ground do you wish to affirm? Is it contrary to your religious belief to take the oath?

The Witness—I have a conscientious objection to taking the oath.

Mr. Justice Avory—Is it because it is contrary to your religious belief to take the oath?

The Witness—I am an agnostic, and I am against taking the oath.

Mr. Justice AVORY—You can only refuse on one of two grounds —either it is contrary to your religious belief, or you have no religious belief.

The WITNESS—Well, my lord, I have a conscientious objection to taking the oath.

Mr. Justice AVORY—You have already said that, but you have not answered my question yet. Is it contrary to your religious belief, or have you no religious belief?

The WITNESS—I have told you, my lord, I am an agnostic.

Mr. Justice AVORY—I may not know what an agnostic is.

The WITNESS—A person who has doubts as to the existence of a divine being, my lord.

Mr. Justice AVORY—I only said I might not know, and I am asking you, is it contrary to your religious belief, whatever it is?

The WITNESS—Yes, my lord.

Mr. Justice AVORY—Very well.

[The witness was duly affirmed.]

Examined by Mr. LEVER—I am a brother-in-law of the accused Browne, and I live at Buckhurst Hill, Essex. Mrs. Browne's sister is my wife. [Shown the ethyl chloride spray.] This exhibit seems to be an article which was in a package which I had in my possession in 1922.

What package was it in?—It was in a tin box of a green colour, one of those imitation Shakespeare books. [Box produced and identified by witness.]

What other articles were in the box?—There were a number of doctor's pills, and there were also other substances. I remember there was a little tube of ether, and there was also a tube of a substance which I was not supposed to possess, and which I destroyed at the time. It seemed to contain opium, and so forth. [Shown medical books produced.] I got those at a sale which was held on the 25th of April, 1922, in Buckhurst Hill Hall in Queen's Road, Buckhurst Hill. It was a sale on behalf of a local hospital. The auctioneers were Ambrose & Son. These articles remained in my house for at least five years. In 1927 Mr. Browne came to stay at my house for a time, and I told him what a curious thing it was that I had these things. Mr. Browne took away the tube of ethyl chloride amongst other things. I said it was only the books that interested me.

Cross-examined by the SOLICITOR-GENERAL—I am quite certain that amongst the assortment of tabloids and drugs of various sorts that Browne took away with him there was this tube of ethyl chloride.

Mrs. CAROLINE ANN BROWNE, examined by Mr. LEVER—I am the wife of the accused Frederick Guy Browne, and I reside still at 33a Sisters Avenue. I have a child, a little girl. Until some

Mrs Caroline Ann Browne

time in September, 1927, I had a situation as cook-housekeeper, and I was living in at the house where I was serving. After that I lived with my husband at 2 Huguenot Place. We were there from about the 20th to the 24th of September. On the 24th September we went to 33a Sisters Avenue. From the 24th September onwards my husband was only away during the night on three occasions. One occasion was when he had to go to Sheffield about the Vauxhall car, I believe. As near as I can remember, it must have been the end of October. Another occasion was when he went to a fair with a Mr. Dyson. That would be in November, I think. The third occasion was when he went to Devonshire to fetch a man back. That was just before his arrest. Apart from those occasions there was never any other occasion when he was away from me for the night.

Particularly, I put it to you, on the 26th of September, the night of this terrible occurrence, where was your husband?—At work; he returned from work between nine and ten that night.

And then?—He was at home all night.

And after that, until he went this journey you told us of about the Vauxhall car, at the end of October, where was he sleeping each night?—At 33a Sisters Avenue. On Sunday, 25th September, when we moved into 33a Sisters Avenue, my husband returned with the van about half-past eight or nine on the Sunday morning. There were several large boxes, a bicycle, and a bedstead on the van. They also brought my little girl back. The little boy Billy Geddes accompanied my husband on the lorry that morning. I know Kennedy, who used to work at the office in my husband's garage.

I want you to tell us, can he, or could he, drive a motor car?—Yes.

Can you tell me anything about any occasion when you saw him actually driving?—On one occasion he came up to my house with a Wolseley motor car and brought me some firewood.

Do you remember any other occasion when he drove for your convenience somewhere?—No; he only took my little girl back to school with him on one occasion. It was Mr. Mistlin's car. Mr. Mistlin is the owner of the Globe Cinema. I know that Kennedy had a driving licence; I have seen his motor licence. When the bicycle, boxes, &c., arrived at 33a Sisters Avenue on Sunday, the 25th, I unpacked the boxes. [Shown a box.] That was one of the boxes that came.

Will you tell us as nearly as you can what was in that box?—There were lots of small electrical fittings and a thing called a pole finder in a metal box, and some forceps. [Witness identified the box and forceps referred to.] I was present at Colvin Street, East Ham, some years ago when these things were stored at my sister's house there. They were in the box exactly as I found them afterwards.

Evidence for Defence.

Mrs Caroline Ann Browne

About the bandages, can you tell us anything about those?—Yes; they are like something which I bought for redressing my husband's hand, which he had poisoned.

Where was he treated for his hand?—At Buckhurst Hill, I believe, at a cottage hospital.

Did you also assist in redressing him?—Yes; he would persist in working and got his bandages so dirty, and I redressed them. As regards the tape, I bought that, as far as I can remember, in July, for the purpose of restrapping my feet after I had them seen to.

I want you to tell us about this moustache business?—About the end of October I went to the garage and I noticed my husband had singed his eyebrows and his moustache at one side. He clipped his moustache down very, very close with some scissors. That was done in my presence.

After that, was anything further done, or was it allowed to grow?—Just allowed to grow. With regard to what happened when my husband was arrested, I remember Mr. Barker coming in and arresting my husband for stealing a Vauxhall car, and my husband said, "How can you accuse me of stealing a car when I paid a fair price for it?" I remember putting the kettle on to boil, and my husband made some cocoa himself. He drank the cocoa then. I cannot remember hearing any more conversation between my husband and the officers at that time.

The Court adjourned.

Mrs. Caroline Ann Browne (recalled), cross-examined by Mr. Powell—Did you know from your husband or from Kennedy that he had taken out a licence in August for the purpose of learning to drive?—No; I thought Kennedy could drive.

You say you saw him on one occasion bring some firewood. Did you say you heard him or you saw him?—No; he brought the firewood.

Did you see him?—Yes.

I suggest to you it was your husband who brought the firewood round?—No; it was Kennedy.

Cross-examined by the Solicitor-General—Were you present in the Police Court when the various stages of the evidence were being taken?—Yes, I was there.

It was not until the very last day, was it, the day when the two accused were committed for trial, that the evidence was given about the revolver and the cartridges?—I cannot quite follow you.

You know that evidence has been given in this case by some experts to say that a Webley revolver was the revolver which fired the cartridge found in the car?—Yes.

That evidence was given for the first time, was it not, on 3rd April, the day on which they were committed for trial?—I cannot state the date, but it was the last day.

And it was on the 10th April after that evidence had been given that you visited your husband in prison?—Yes.

When you wrote a letter to the little girl Mabel Currie?—Yes.

On the back of it your husband asked a question from Currie designed to find out the date on which he said he had changed revolvers with Kennedy?—Yes.

Had you before that date asked any questions from Currie about changing revolvers?—I had not.

You remember the day, I have no doubt, very well on which your husband was arrested?—Yes; the 20th January.

On the morning of the 21st, when he was at Tooting Police Station, were you there?—I was there at eleven o'clock.

And were you asked by Detective Sergeant Harris if you would give the police some information about your life with your husband?—Yes; by Inspector Harris and Inspector Leach.

I think you said that you would?—Yes.

Let us just get the time and place clear. It was in the billiard room at the police station, was it not?—I believe it was.

And at the time that you were asked to give the statement all the things that had been found were put out on the billiard table?—They were on the table.

As a matter of fact, they were photographed on the table while you were in the room?—No; only the revolver, as far as I know.

Some of them, at any rate, were photographed on the table while you were in the room?—Yes.

I only want to ask you about one or two points. I think it is fair to say the statement was not read over to you, nor were you asked to sign it?—No.

But it was taken down by Sergeant Harris while you were there?—Yes.

Is it fair to say you made it quite voluntarily?—Yes.

And were quite a considerable time in making it?—Yes.

I think he asked you questions about the points they would like you to deal with?—Yes.

Do you remember their asking you something to this effect—whether you could remember whether your husband slept at your new home, 33a Sisters Avenue, for the first three nights after you had moved there?—Yes.

And this is what you said, "I left my situation on the 20th September, 1927, so that we could set up house again. We moved to 33a Sisters Avenue on the 24th September. We moved in at midday, and he went back to the garage. As far as I can recollect, he slept at home that night and on the Sunday, but occasionally, if any one was coming into the garage late, so as not to disturb me, he slept at the garage, where he still had his bed"?—Yes.

You said that—Yes.

And was that true?—Yes.

Then were you asked about the various medical appliances which were on the table?—I do not think I was, not on that day.

Let me try to remind you. Were you not asked about the lint, and did not you say that you had bought it?—Oh, yes.

And was there not a bottle of iodex? You remember the bottle of iodex?—Yes.

You were asked about these things that were all in the group together?—Yes; I had forgotten.

Now that I have reminded you, let me see if this is what you said, "My husband told me he had bought the lint because they were always cutting their hands"?—Yes; but some I had bought myself.

I am going on. It is quite right. Did you say you had bought some lint?—Yes.

I have not got that down. At any rate, it is right, is it, that you said your husband told you he had bought the lint, or some lint?—Yes.

Because they were always cutting their hands. "A bottle of iodex I bought for my feet about last July." You said that, did you?—Yes.

Be careful about this. See if this is right, "But with regard

to the surgical instruments and other property taken possession of by the police I do not know anything about them. I remember he had an electric torch for examining the little parts of the car "?—I cannot remember saying the first part which you have mentioned.

Just let us see. They asked you about the lint and the bottle of iodex, and there were the surgical things and other things on the table, the forceps?—Yes.

Now, do you not think they must have asked you about them?—They may have; but if I had answered I must have said I had them.

I have not put the whole of the rest of this long statement to you, because if I did we could check it all through and see how accurate it was as a whole, but so far up to this, would you have agreed that everything I have read to you was accurate?—Yes; up to the point of the surgical instruments.

Do you not think you must have said it on the 21st January? I am not suggesting you may not have said something else later on. On the 21st January, when they asked you about the surgical instruments, did you say, " I do not know anything about them. I remember he had an electric torch for examining little parts of the car "?—I could not have said anything about " I did not know anything about the forceps," because I knew that he had them.

Perhaps this will help you. Did you point to one pair of scissors or forceps—I dare say they were called scissors—and say, " I notice a pair of scissors he had for some time "?—Well, they were an ordinary pair, quite a proper kind of scissors.

Were they?—What I saw.

Would you be able to identify what you call a pair of scissors?—Yes, if they were shown to me.

[Shown three pairs of forceps produced.] Was it any of these?—No.

Something quite different, was it?—Yes; quite an ordinary pair of scissors.

Now, the end of the sentence is right and the middle of the sentence is right. Are you not sure the beginning of the sentence is not right?—No; I could not have said " I do not know anything about these," because I knew that he had them.

Re-examined by Mr. Lever—You were not asked to sign the statement, I understand?—No.

Was it read to you, the whole of it?—Not to my remembrance.

Were these things taken up by you separately and examined one by one?—No.

They were all on the table?—All on the table.

To your recollection and remembrance did you say anything different about any of these things to what you have sworn in the witness-box to-day?—No.

Mrs Caroline Ann Browne

By Mr. Justice Avory—Did you give evidence at the Police Court?—No, sir.

Do you remember Monday morning, the 26th September?—Yes.

Do you remember what time your husband Browne went to the garage that morning?—To my remembrance it was about eight o'clock.

Do you know what had been his habit?—Usually it was eight o'clock.

According to your recollection, did he never go earlier than that?—Not often.

Sometimes?—I have known him go at half-past seven, except on the Sunday morning he went to the garage early, on Sunday, the 25th.

What time did he go then?—About half-past five.

And what time did he go on Tuesday morning, the 27th?—It must have been between nine and ten o'clock.

Why was he so late?—Because on the Monday night we unpacked our boxes, and we were rather late in going to bed, and that is why he went rather late on the Tuesday morning.

Mr. Lever—That is my case, my lord.

Evidence for the accused Browne closed.

The Solicitor-General—My lord, I ask leave to recall Sergeant Harris with regard to one point at issue with regard to the statement made by the last witness.

Mr. Justice Avory—Yes.

John Harris (recalled), examined by the Solicitor-General—It appears to be agreed, so I need not put it in detail to you, that Mrs. Browne gave you a statement on the morning of the 21st of January at the Tooting Police Station?—Yes; in the billiard room.

At the time when you asked her for that statement had any charge of murder been made against her husband?—It was never mentioned there.

I think you took down, as she made it, a statement which in length is some five and a half closely typed sheets?—Yes, sir.

I do not want to go through any part of it at all, except the part relating to the things which were on the billiard table. She has told us that the revolvers were there. Which of the medical appliances, if any, were there?—All that are now exhibits, and the bottle of iodex, which was not made an exhibit. The pair of scissors that she referred to were the long forceps.

By Mr. Justice Avory—Did she call it scissors?—She called it scissors, my lord. Actually there were no ordinary scissors found or on the table.

John Harris

Examination continued—[Handed original statement in witness's own handwriting]. Will you just tell us what you asked her and what she said with regard to those instruments and appliances?—The lint was on the table with the other stuff, as also were the surgical instruments and the others. She got up from her seat which was at the side of table, looked over the various exhibits that were there then, and spoke about them, and I wrote down, as she spoke, her remarks about them. We asked her previously if she could tell us anything about them, where they came from, and, as she replied, I wrote it down, and that is contained in this paragraph commencing "My husband told me he bought the lint because they were always cutting their hands. The bottle of iodex I bought for my feet about last July, but with regard to the surgical instruments and other property taken possession of by the police I do not know about them, except I remember he had an electric torch for examining little parts of the car; I notice a pair of scissors he has had for some time." [Referring to a pair of forceps.] The electric torch is the Sancy light.

Cross-examined by Mr. Lever—You did not get her to sign the statement, and you did not read it over?—Parts were read, not as a whole.

Mr. Justice Avory—Now, Mr. Powell, what do you propose to do.

Mr. Powell—My lord, the defendant Kennedy wishes to make a statement to the jury from the dock, and I call no evidence.[1]

Mr. Justice Avory (*to Kennedy*)—You must speak loudly and clearly, because it is very difficult for me to hear anything that is said from that part of the Court.

Statement by Accused Kennedy.

Accused Kennedy—Ladies and gentlemen, the statement which I made to Inspector Berrett is absolutely true. I answered all the questions[2] put to me at the time by Inspector Berrett, and the answers were dictated to Sergeant Harris, who wrote them down. It has been mentioned by the prosecuting counsel that there are one or two points which I had to explain. Had I been questioned about them at the time I would have given the explanation I propose to give to you now. I had not the slightest idea on the night of the murder that Brown was carrying a revolver. The first

[1] If Kennedy had gone into the witness-box his past life would have been exposed under cross-examination. On the second day of the Trial Mr. Lever had told Mr. Powell that in Browne's interest he would be bound to cross-examine Kennedy on his "record."

[2] So emphatically contradicting Inspector Berrett's evidence!

William Henry Kennedy.

intimation I got of it was when I heard the first two shots fired. It was too late then for me to do anything to stop it, but I said, "My God, what have you done?" He told me to get out of the car quick, and then he walked over to the body of the constable, who was lying on his back at the hedge, and I endeavoured to push Browne away. Before I could get to him the second two shots were fired. The man was in an absolute mad frenzy. It was that that caused me to reload the revolver. I was so terrified by the way he acted and spoke, and I was in such a state of mental agitation by what I had seen, that I really did not know what I was doing. With regard to the automatic pistol found in my possession, it is perfectly correct, as I said in my statement, it was given to me by Browne before I left for Liverpool in December. My intention was to go abroad, as soon as I could raise the capital, to Africa, a country I knew very well, and there the pistol would have been specially useful for me in the wilds of Africa. I knew the police were after me in Liverpool, and my intention was to take the revolver out and lose it, because I thought that had it been found in my house my wife would have been implicated in some way, and that I wished to avoid. I was carrying it in my overcoat pocket, and when I was seized from behind by Sergeant Mattinson my hand was jerked from the pocket, and the click that he described was undoubtedly, as described by the prosecuting counsel at the opening of the case at the Police Court, a click caused caused by the muzzle of the automatic striking on the button. That is no doubt what it was. I only intended to frighten him. I did not say to Sergeant Mattinson, "Stand back, Bill, or I'll shoot you," nor did I say to him at the police station, "You should be in heaven now, and there was one for me." This remark was overheard by Inspector Kirschner at Liverpool, who in his evidence at the Police Court distinctly said he heard me state "I had no grudge against the police." No reference to the other remark, "You should be in heaven now, and there was one for me." The reason I did not give information to the police about the murder was I was so terrified and I thought that had it been known that I was present at the time of the murder I would have been accused of it, although I was completely innocent of it. I can only now express my deep regret to Mrs. Gutteridge that I should have been in the car on the night of the crime.

Mr. Powell—That is my case, my lord.

Mr. Justice Avory—Is the witness Dyson still in attendance?

The Solicitor-General—Yes, my lord.

Mr. Justice Avory—Let him come back.

John Frederick Dyson (recalled), further examined by Mr. Justice Avory—You are the man who was employed at the garage?—Yes, my lord.

What time did you usually get there in the morning?—Eight o'clock.

Was that your regular time?—Yes; except on two occasions I had to get there early to let two cars out.

Were those any particular occasions? Do you remember when those were?—No, sir, I never took that much notice.

But before the 26th November, were they?—No; I do not think they were, sir.

Then when were they?—They would be in October, as far as I can recollect.

Do you recollect Monday, the 26th September?—No, I cannot. I have been trying to, but I cannot.

Did you hear of the murder of Gutteridge?—Only by reading the paper.

How soon did you hear it?—I could not possibly say. You read different cases every night in the paper of some sort.

Was it not in the newspapers very soon after it happened?—I could not say that, sir, but I remember reading it.

Just take your mind back to the time when you first heard of it?—It would be on the Sunday after the murder.

Not before?—No, my lord.

Well, the Sunday after?—I read it in the *News of the World*, I am positive of that, the Sunday after the murder, my lord.

According to your recollection, were you there at the garage on the Tuesday morning of that week at the usual time?—Yes, my lord, all the week.

The usual time?—The usual time.

Try and recollect. When you arrived there on the Tuesday morning was there anybody else there at the garage?—Yes; both the accused were at work when I arrived.

Mr. Justice Avory—Do either of you wish to ask any questions on that?

Mr. Lever—If I may, my lord, I should like to.

Further cross-examined by Mr. Lever—I think you have told us that the first you noticed of the murder was when you read it in the *News of the World*. Would that be the Saturday or the Sunday?—On the Sunday after.

As for a particular day of that week from the Sunday until you read about the thing in the newspaper, as far as you are concerned, can you remember anything extraordinary about those days? Was everything going on as usual?—Everything was going on as usual as far as I am aware.

You did not take, I suppose, any particular notice of the times when anybody came in or went out?—No; not without I had instructions to take anything during the day.

So when you are asked at what particular time Browne or Kennedy came in on any morning you are not able to say?—I would not be near the office to see.

Kennedy, we know, was sleeping there most of the time anyhow?—Yes.

But you cannot, can you, give any information at all to the Court as to the time Browne came in on any particular day?—No, not a particular day.

I mean, if you can help the Court you will?—Certainly.

Can you give any of us the slightest help as to anything about the time when Browne was there working or came in to work on any of those days?—As far as I can say he was always at work at the same time as I was every morning, unless he told me he would be a quarter of an hour or half an hour late.

Whether it happened in that week you cannot say?—I cannot say.

Further cross-examined by Mr. Powell—Until you answered my lord I suppose you did not know what you were saying was exactly what Kennedy said in his statement to the police? You did not know that?—No, sir.

Mr. Justice Avory—That will do.

Closing Speech for the Accused Browne.[1]

Mr. Lever said when they had all read of the murder a picture rose before them which they could not forget. They had all felt angry at what had happened. When they read of Kennedy's confession, they all said, "They have got the right men, and Browne is the worst of them." But, according to the law, that conclusion was hopelessly wrong. I am standing here to vindicate the law, as distinguished from sympathy. The law is not an "ass"; it is a collection of the wisdom of centuries, and the law is that all that has been said against Browne in Kennedy's statement is not evidence against him. The name of Browne appears in that confession some forty times, but it is not Browne so far as the law is concerned. And yet you and we felt it was Browne, that it was convicting Browne.

Referring to the published reports of the police court proceedings, he said: "I would suggest humbly that any Government might well consider this question of whether preliminary proceedings should be published in full in a case of this kind—fair and accurate in a sense as they are—or whether it would not be better that the jury should come into Court not informed as you were, but should come fresh, with a fresh case, a fresh issue for trial, which is particularly vital to the man himself. The evidence against Browne is pitiful in its want of solidity, but side by side with it is this horrible statement in detail, a statement so cogent, so definite and dramatic, of the incident. You cannot get it out of your minds. It would have been better for the jury if the judge had acceded to his application for a separate trial."

[1] This, Mr. Powell's, and the Solicitor-General's speeches are considerably condensed.

Mr Lever

Mr. Justice AVORY—You have no right to say that. If our positions were reversed you would be entitled to say it.

Mr. LEVER said that he did not wish to make any personal attack on the judge, but he would have been relieved to some extent of the one real difficulty in the way of Browne's defence—the statement made by Kennedy—if the cases had been tried separately.

It is Kennedy's case that he did not shoot the constable. But he says he was there, and somebody did the shooting. Would it have been listened to had he said he did not know who it was? Here in Browne was a man provided—a victim to his hand. Kennedy said he was at the murder, and I do not deny it. I do not say he committed the murder. I will not attack Kennedy any more than I am obliged. His position is bad enough as it is. That statement is a puzzling one. It is like a historical romance where you get partly fact and partly fiction to suit the person to whom the writer is appealing. But after Kennedy had made this Frankenstein he was afraid of the devil he had created. At the police court it was suggested that the statement had been obtained by threats. Now there is a complete *volte-face*, and nothing is said about the way it was obtained.

The evidence showed that Kennedy had concocted a lot of lies to save his neck without any consideration for anybody else.

Have you ever read a more lying, subtle, or incredible document than this is? He makes himself out as a mere lamb. I will content myself by mentioning his arrest by Sergeant Mattinson. An automatic pistol with which he tried to shoot the detective is surely a curious fang for a lamb to show. Ask yourself whether Kennedy was a lamb or whether he is that most treacherous, most dangerous of all animals, a wolf in sheep's clothing.

He submitted that when Dr. Lovell's motor car was found in Foxley Road, Brixton, it had marks upon it to show that it had been in collision probably twice. "This car was brought back by an unskilled driver," he said, "and that driver was Kennedy."

Referring to the fact that Kennedy had not given evidence in the box and submitted himself to cross-examination, Mr. Lever declared—"He has taken all the advantage of a coward's screen by the panel of the dock."

When Browne was in the box the jury had seen human nature at the roots. He is not a lovable man; he begins with quibbling over the words of the oath. He is a man whose appearance and demeanour I should think would not endear themselves to anybody. But you have to judge him, not as lawyers, and you will remember the strain he has passed through. A man perhaps never of the sweetest disposition, his temperament has been injured, and he must appear at his worst in the ordeal which he had the courage to face, although others might shrink from it. That explains his fighting attitude. He wants no sympathy, and

I should say he is the type of man who would treat it with contempt.

He urged that the irresistible inference was that the weapon from which the shots were fired was the property of Kennedy and not Browne. Of the two pistols which were found in his car, one belonged to Kennedy on 27th September, 1927. Where Browne got the other he declined to say, not as a cur but as a man. There was no evidence that Browne had used the revolver which killed Gutteridge—a revolver which Browne neither owned nor possessed at the time. The medical instruments and appliances which were found in Browne's possession were the ordinary things that one would expect to find in a country doctor's "kit." They were produced in large quantities, and they could be obtained anywhere. No attempt was made by Browne to conceal those articles, which it was inconceivable, if they had come into his possession in the way in which the prosecution suggested, that he should keep lying about for months. All the efforts made by the prosecution had failed to produce the slightest evidence that Browne was anywhere near the scene of the murder on the night of 26th September.

"And now, members of the jury, my work in this case is finished. It has been made tolerable only by your great patience, for which I thank you. The frail shield which I have been able to hold before my client must now be laid aside. He stands face to face with you, with each man and woman of you. No one must come between you, not any counsel nor any judge. He stands before you in his rights of a man, a human being like yourselves, endowed with the same faculties, crowned with the same spiritual attributes, but near him hovers the dark angel of death. He asks you for no sympathy, but he does demand justice, and if you can throw off this burden of prejudice, if you can by a superhuman effort rise to the high plane of abstract justice, he will await your decision not in despair, but in hopeful anticipation of receiving at last, at long last, a verdict of acquittal at your hands."

Closing Speech for the Accused Kennedy.

Mr. Powell said Kennedy had not gone into the witness-box because, when the time came for him to decide whether he should do so or not, all the evidence which he required to prove his innocence was before the Court.[1] Witness after witness for the prosecution had proved Kennedy's innocence. The question which had to be decided was not how Kennedy's statement came into existence, but whether it was true. If he had spoken the truth in that statement, what need was there that he should say it all

[1] Surely the reason why Kennedy was not put into the witness-box was that he dared not face cross-examination.

over again on oath? The truth was as valuable whether it were given on oath or in any other way. Kennedy's statement was made before he had had any opportunity of consulting with his legal advisers. Even if there were a revolver in Browne's garage on 26th September, what evidence was there that Kennedy knew that Browne had it in his pocket on the fatal night? The jury were not to guess about his knowledge. Kennedy's life was not to depend on a guess. It was for the prosecution to prove that Kennedy knew that Browne had the revolver and acquiesced in its use, and this the prosecution had failed to prove. It was not enough for the Crown to make out a case of suspicion. He said he was not only attacked by the prosecution, but he was more or less forced into the position of prosecuting Browne.

It is a most unhappy position to be in, but it is not a position of my choosing. But at any rate I have the satisfaction that Kennedy's attitude was declared and his defence put forward before any lawyer had any communication with him.

To establish Kennedy's guilt it was necessary to prove that Kennedy knew when he went out that night that Browne had a revolver.

Mr. Justice Avory pointed out that if Kennedy knew at any moment before the shots were fired, and was a party to the shooting, he would be guilty.

Mr. Powell—My case is that Kennedy, as he has told you from the dock, did not know Browne had a revolver till he heard the two shots. It follows that he could not have been a party to the shooting. The letter written by Browne in invisible ink was a cunning plot on the part of Browne to incriminate Kennedy. In that letter he asked for the date when he "changed revolvers with Kennedy with which he may have shot the policeman." Did you notice, in one of Browne's rambling replies to the Solicitor-General, he said, "Of course the officials found it out. I knew they always read letters"?

Browne's story about his having received the service revolver from Kennedy in exchange for an automatic pistol some time in November or December was a cunning plot to inculpate Kennedy. When Browne wrote the message in invisible ink on the back of the envelope on 10th April he knew that it would be seen by the prison authorities, and it was reasonable to infer that he wanted it to be seen. What happened when Kennedy was arrested at Liverpool occurred too long after the murder for it to be put into the scales against Kennedy on the present charge. In suggesting that Kennedy had really tried to shoot him Detective Sergeant Mattinson had exaggerated. It was clear that Kennedy had done nothing more than to try and bluff the officer. Kennedy was absolutely conversant with the pistol, which had been in his possession for some time. He could have pressed down the safety-catch while the pistol was in his pocket. He was stated to have

said to the sergeant, "Stand back, or I will shoot!" The sergeant did not stand back, and Kennedy did not shoot, and when he was searched the pistol was found in his pocket with the safety-catch still up. The quality of your merciful consideration will not be strained in a matter of this sort. Is there not room for Kennedy's version about that—that it was all bluff, that he never intended to shoot the officer, and that if he had wanted to shoot him he could have done so. Passage after passage in Kennedy's statement had been corroborated by witnesses called for the prosecution. On 26th September Kennedy said that he and Browne went to Billericay by train to steal a Raleigh car. Then came the incident of a dog and a dustbin—an incident which was of fundamental importance in considering whether Kennedy knew that Browne was carrying a revolver. Kennedy said in his statement, "A dog came out and, starting to bark, it made Browne leave and join me, and he said, 'It's no good here. We cannot get back by train, so we will try somewhere else.'"

Referring to Kennedy's statement that he told Browne to stop when they met the policeman, he said, "I cannot understand myself why they did stop. I should have thought they would have gone on, but perhaps they were afraid of the policeman's whistle."

When Browne left the box he had proved that he was a person on whose word not an atom of reliance could be placed. Browne's evidence added nothing in weight against Kennedy. I have never heard a case in a criminal court where the prisoner's story is so much corroborated by the prosecution itself.

Quoting Kennedy's statement that he begged Browne not to shoot a second time—Does that show the monster and the callous brute? Does it not show that although he may be a burglar he is not a murderer? If Browne could behave as he did in the witness-box, with everything calculated to put him on his best behaviour, how did the jury think he would act on the occasion of the murder? How many times did they think they ought to magnify his mad conduct in the witness-box? Can you not picture the state of terror and anxiety in which Kennedy lived during this time from the moment the fatal shots were fired? With this dread secret which Browne would have holding over his head, do you not think that Kennedy might be terrified of going away lest Browne should accuse him of having committed the murder? I suggest that Browne did shoot the officer. Did Kennedy agree with Browne that in stealing the car firearms should be used? I submit that the prosecution have not proved that. If you believe that, there is not one of you who would be prepared to take the first step in ushering this man into eternity.

Closing Speech for the Crown.

The Solicitor-General said that the two real points with which Browne was concerned and with which the jury had to deal were the possession of the critical revolver and of the doctor's property. The man who was in possession of that property had been in possession of the car in which the property was. Don't forget that the motor car was never in possession of anybody except the doctor until between seven o'clock of the night of 26th September when the doctor locked it up and about 6 p.m. the next day when it was taken to Brixton Police Station.

Where was the second Webley revolver? You have no evidence about that from anybody. Do you think that going out on an expedition like this—I am assuming that you have accepted the fact that Browne was the second man on this expedition—do you think that with at least two revolvers on the premises at home he would have gone on this car-stealing expedition content to be the only one armed? Was that his way? Do you think, to use a military metaphor, that Browne would have been content to leave his left flank unguarded?

He pointed out that there was nothing in Kennedy's statement about Browne handing Kennedy any ammunition for reloading the revolver after the crime. Referring to Kennedy's declaration from the dock that he reloaded the revolver because he was terrified of Browne, he suggested that he had reloaded it for one purpose only—to resist any one who should oppose their escape. There is only one charge, aye or no. Was Kennedy guilty of murder? If you think he was not, say so. Similarly in regard to Browne, if you think these matters or circumstantial evidence—putting aside Kennedy's statement as having nothing to do with Browne—are inconclusive, and do not satisfy you he was the man who fired the shots, don't hesitate to say so. I am bound to submit on behalf of the prosecution that there is abundant evidence on which you should infer the guilt of both these prisoners.

Mr. Justice Avory said that it was too late to start summing up.

The Court adjourned.

Fifth Day—Friday, 27th April, 1928.

Charge to the Jury.

Mr. Justice AVORY—Members of the jury, at the outset of the observations which I am going to make to you I would remind you, although it may be superfluous to do so, of the principles which must guide you in the determination of this case. First of all, it must be determined upon the evidence and the arguments which you have heard in this Court and not influenced by any prepossession or ideas that you may have entertained before you came into that jury-box; and by the evidence I mean, of course, that which is legal evidence against either of the accused. In this connection I would remind you once more, although you may be tired of hearing it, that the statement made by the accused Kennedy is evidence against Kennedy alone, and is not evidence against Browne. The second principle which should guide you is that you must deliver your verdict without regard to the consequences of it, the responsibility for which is in other hands. You have heard expressions from the learned counsel representing the accused of this nature, " That the angel of death is hovering near one of them," and " That each one of them is fighting for his life." Those are expressions which are not infrequently used in grave cases of this description; they are calculated to deter you from doing your duty, which in this case is the same as in any criminal case, namely, to return a true verdict according to the evidence. The third principle which must guide you, and which, above all, you must bear in mind, is that the burden of proof in this case is upon the prosecution to satisfy you that the accused, and each of them, are guilty, and it is not for them to satisfy you that they are innocent.

I will now say one word about the application that was made to me to order a separate trial in this case, and I should not have thought it necessary to make any further observation upon it, but from what fell from the learned counsel, Mr. Lever, who told you that in his opinion it would have been better if I had granted that application instead of refusing it. I presume he meant that in his view it would have been better for him if I had done so, but you know the views of learned counsel, either for the defence or for the prosecution, often do not coincide with the views of the presiding judge, and you may remember that, when making this application, he stated in your hearing that the accused Kennedy would in the ordinary course be called as a witness in this case, and the learned counsel who represented Kennedy concurred in the application and made no protest against that statement.

Mr. Powell—Would your lordship allow me if I intervene? I ought to say that my learned friend made that statement entirely on his own responsibility, and had no sort of authority from me and nothing from me at all to suggest it. I had decided from the beginning that I was not going to call Kennedy.

Mr. Justice Avory—I have not said otherwise, Mr. Powell.

Mr. Powell—My friend spoke entirely on his own responsibility; he did not have it from me, my lord.

Mr. Lever—I never pretended to do anything else.

Mr. Justice Avory—Members of the jury, the learned counsel in his address to you also told you that he could not doubt that before you ever came into that box you already were well acquainted with the statement which Kennedy had made. That may be true or it may not, but in any event, looking at all that has transpired in this case, I remain of the same opinion, that I did not err in refusing that application, and I have sufficient confidence in your sense of justice to know that the accused Browne will not be prejudiced in this case by the fact that both of them have been tried together.

The rule of law which determines that the statement made by Kennedy behind the back of Browne is not evidence against Browne is, after all, only a rule of common sense, and you must be perfectly well aware that no man ought to be prejudiced whether in or outside a Court of law by a statement which is made behind his back and which he has no opportunity at the time of refuting.

With those preliminary observations let me now suggest to you it will be for your convenience in arriving at your conclusion that you should consider this case in the light of four questions. Please understand that I am not inviting you to return specific answers to these questions; I am only suggesting them as a convenient mode by which you may deliberate and arrive at your conclusion. They are—(1) Was Police Constable Gutteridge murdered by some person or persons on the night of the 26th September, 1927? (2) Was the murder committed by the person or persons who had stolen Dr. Lovell's car? (3) Were these two persons in Dr. Lovell's car at the time when the murder was committed? and (4), if so, if they were in that car, which of them shot him; if only one, were they acting together with a common purpose to prevent their detention or arrest?

Mr. Lever—My lord, with very great deference might I, without disrespect, suggest that the question as to whether the accused were in the car should be divided into two: first, was Browne in the car, and, secondly, was Kennedy. Might I suggest that, my lord.

Mr. Justice Avory—You may suggest it, but it is quite unnecessary; the jury, I am quite sure, are of sufficient intelligence to understand when they ask themselves whether the accused were in the car, whether there were both of them or only one.

Charge to the Jury.

Mr Justice Avory

Members of the jury, now upon the first question: was Police Constable Gutteridge murdered on the night of the 26th September—because that, of course, is the foundation of this charge—you have the fact that at twenty-five minutes past three in the morning of the 27th, or about half-past three, the police constable was on duty at the conference point where Police Constable Taylor met him; he was then well and apparently in good health and in the execution of his duty. At six o'clock that morning his body was found 638 yards from that conference point killed by bullet wounds, and learned counsel for the defence in this case have themselves used the expression that "he was there found brutally and foully murdered." He was found in a reclining position against the bank by the side of the road with a trail of blood starting about six feet from the opposite side of the road and extending to the spot where he lay; his helmet was off, his pocket book was close to the body, and in his right hand, between his finger and thumb, was his pencil. Can you doubt that after he was upon his back the person or persons who shot him deliberately fired those two shots into each of his eyes?

That is all it is necessary for me to say to enable you to answer the first question whether he was in fact murdered between the hours of half-past three and six o'clock on that morning. That he was in the execution of his duty at the time you probably will not doubt, whether it was some footpassenger or whether it was some person or persons in a vehicle or motor car that he was taking particulars from.

One observation was made by Mr. Powell yesterday, when he said, I think inadvertently, speaking on behalf of Kennedy (assuming that Kennedy was the person who was in the car at the time), that the felony of stealing the car was then completed. Well, that was quite erroneous. If, in fact, this constable was taking particulars from some person who had stolen that car from Dr. Lovell the felony of stealing the car was still in progress; whoever the persons were they were still stealing the car at the time the constable stopped them, if he did stop the persons in the car, and any one who was stealing that car would have been liable to be arrested and charged in any place through which he passed on the way to London. That is only by the way; I only thought it necessary to correct an observation which was probably inadvertently made.

Now, passing to the next question: if you are satisfied he was murdered, was the murder committed by the person or persons who had stolen Dr. Lovell's car? You know that that car was stolen some time after half-past twelve on the morning of the 27th, because Dr. Lovell did not go to bed till half-past twelve or later, and there was no sound of any disturbance such as he would probably have heard if anybody had been breaking into that garage before he went to bed. A witness named Wilson has

told you that somewhere about half-past two on that morning he was awakened by the noise of a car being started up somewhere between his house and Dr. Lovell's, and you know from the description given by Dr. Lovell that the car would run down of its own weight from the garage to the road, because it was there upon an incline. Therefore any persons who broke into that garage and stole the car might, and probably would, run it down to the road before starting it up, particularly if they were anxious to avoid making the noise of starting it up at the house. And another witness named Stevens has told you that on that night, he having gone to bed some time after midnight and gone to sleep, was awakened by the flash of the light of a car passing and going towards the Mountnessing Road, and, he being familiar with the sound of Dr. Lovell's car at the time, recognised and believed that it was Dr. Lovell's car that was passing his house. That stolen car arrived the next morning, the same morning rather, at 21 Foxley Road, Brixton, at some time before seven o'clock in the morning, because, as you remember by the evidence of the witness who came out of his house at half-past seven, he found the car there, in the passage with the radiator still warm, and to arrive at Foxley Road, Brixton, that car in the ordinary course on its way to London might have passed the spot where the dead body of Police Constable Gutteridge was found. Further, there is evidence that on the off-side of the running board of that car were found spots of human blood in a position on that running board where they might have been caused, if the police constable was standing by the side of the car at the time when he was shot, bearing in mind that the wounds which injured or severed the carotid artery would have caused much spurting of blood. And, further, in that car at 6.45 in the evening of that same 27th September there was found the empty cartridge case which is now identified beyond dispute as the cartridge case which had been in the revolver which is called exhibit 17, the revolver upon which so much turns in the case of Browne as distinguished from the case of Kennedy. So far as Kennedy is concerned, the question whether the murder was committed by persons or by a person who stole Dr. Lovell's car is, of course, beyond controversy, because he admitted in his statement that he was party to the breaking into that garage and to the stealing of that car, and that he was in that stolen car at the time when the police constable was shot; that is only as far as Kennedy is concerned. I have been pointing out the other facts in the case to enable you to come to the conclusion, apart from Kennedy's statement, whether you can entertain any reasonable doubt that the murder was in fact committed by some person or persons who had stolen Dr. Lovell's car.

Now we come to the third question: were the accused, both of them, in Dr. Lovell's car at the time when the murder was committed? As I have just observed, it is admitted by Kennedy

that he was there in the car at the time when the police constable was shot. What is the evidence upon which you are invited to come to the conclusion that Browne was also there? On the 20th January of this year Browne is found in possession of a revolver, from which the cartridge was fired, and at that time on the 20th January he is found in possession of ammunition similar to that with which the wounds in the police constable were caused. Three bullets were found which had wounded the constable. One bullet was found in the ground under the police constable's head, and is identified as what is called a Mark I R.L. (Royal Laboratory), and it was a bullet which had been fired with black powder. Another bullet was also found in the road, and is the bullet which had come out of the neck of the constable, and that is identified as also a Mark I bullet, and had been fired with cordite. The third bullet was found actually in the brain of the dead man, and is identified as being either a Mark II or a Mark IV, also fired with cordite. On the 20th January Browne is found, as I have told you, in possession of ammunition which corresponds with that. The revolver which was found in the back of the Angus-Sanderson car that Browne was driving, and drove into the garage on the 20th January, was loaded with six cartridges; two of those are Mark I, one of them is a Mark II, and, of the two which are Mark I, one is loaded with cordite and the other is loaded with black powder, so that you find him on the 20th January—but it may be a coincidence only, that is for you to judge—but you find him actually in possession of a revolver loaded with two cartridges, at all events, corresponding with those with which the constable had been murdered; and in the revolver which was found in the pocket of the Angus car—that is the revolver upon which so much depends—in that revolver there were found six cartridges, all Mark IV. So that it is clearly established, and I have said it may be a mere coincidence, but it is established that on the 20th January Browne was in possession of the revolver from which the cartridge found in the car had been discharged, and he is in possession of ammunition which had undoubtedly been used in the murder of the police constable.

Now we come to what is undoubtedly, so far as Browne's case is concerned, a crucial question, and that is, was Browne in possession of that revolver on the night of the 26th September? Early on the morning of the 21st January, soon after his arrest, Browne made a statement to the inspector. At that time when he made his statement at 12.45 in the morning of the 21st January the only revolver which had been found was the revolver from which that particular cartridge had been fired; that had been found in the pocket of the Angus-Sanderson car in the right-hand or off-side pocket by the driver's seat, and that was the only one which at that time had been found and the only one of which the inspector who was taking this statement had any knowledge, and

in the course of his statement Browne said this—remember it had been not only found, but produced, brought in to where the inspector was and produced, and Browne said: "I have been asked by Inspector Berrett to account for the Webley revolver found in my possession which was loaded in six chambers. I wish to say I have never fired the revolver since I first had it. I got it some time in April last. I gave £3 for it down at Tilbury Docks from a sailor man whose name I do not know, neither can I describe him. He was an ordinary seaman. It was unloaded when I bought it. The ammunition with which it is loaded I obtained from another man, together with a number of other cartridges which were found in my hip pocket. I knew the man I got the ammunition from in the Army. I do not wish to say who the man is. The ammunition is very old in type, and was made previous to the war. Shortly after I got the revolver it began to go rusty, and I kept it well oiled. I have never used it. I loaded it so that it would frighten any one in case they interfered with me, and the reason I carried the weapon was because at the beginning of the war, when I was working for the Pytchley Autocar Company, delivering cars by road in different parts of the country, I was stopped on two occasions, once when I was going through Gloucester to South Wales and a man at dusk signalled to me when I was driving the car to stop. As I slowed down in accordance with his signal, and I was engaged on the near side speaking to him, two other men jumped on the off-side running board and demanded money. I was unprepared, and gave them what little money I had. Some six weeks after that occasion, when going to Bournemouth with another car, the same kind of thing happened to me with a man calling on me to stop, but I declined on this occasion to stop. After this second occasion I made up my mind to be armed when taking cars to the country, and I purchased a revolver with a long barrel, but I had no ammunition." Now, can you doubt—in view of the fact that Browne professes to know the difference between these two revolvers, the one which he says went rusty and the other which is called the newer one—can you doubt, seeing that the one which was produced at that time about which he was being asked was the newer one, that Browne was in fact referring to that when he said that he had had it since April, and that he had bought it from a sailor at Tilbury Docks? He now says that he was not referring to that one which was then produced, but referring to the other one which had not then been found.

After this statement had been taken, another police officer, I think his name is Bevis, made another examination of the Angus-Sanderson car, and he then found in that little cupboard at the back of the driver's seat the second revolver, also loaded with six cartridges, and he brought that into the place where the inspector and Browne were, and said at the time in the presence of Browne—

he came in holding the revolver in his hand, and said he had found it in the car. And that having taken place, on the following day, the 22nd January, the inspector had another interview with Browne, at which Browne was again cautioned that anything he said would be taken down and might be given in evidence, and he said then, with reference to this second revolver, which you know is the one called the older one: "I have also been shown a Webley revolver, which I know was a second one found in the Angus-Sanderson car fully loaded. I have also seen 24 cartridges in a handkerchief found in my rooms, 11 cartridges found in my house, .45 and two packets of .45 ammunition, and 16 cartridges found on the dresser of the inner office at my garage. I admit they were where you said they were found, and I admit having them, but I decline to give any explanation where I got them." Now, in view of the fact that that second revolver which was produced to him on the 22nd January is the older revolver, again you must ask yourselves whether you can doubt that on the previous day Browne was referring to the newer revolver, the one from which the cartridge had been fired that was found in the car, and that he was saying on the 21st January that he had bought that revolver in April from a seaman and had had it in his possession since that time.

We will turn now to his evidence in the witness-box upon this point. In his examination-in-chief he said: "I kept the two Webley revolvers at the garage. I was referring to the older revolver when I said it began to go rusty. I was referring to the newer one when I said I got it from a sailor." There is his admission in the plainest possible terms when he was giving his evidence, examined by his own counsel, that when he spoke of purchasing a revolver from a sailor man in April of last year he was referring to the revolver from which that cartridge had been discharged. And he emphasised it by adding: "The latter"—that is this pistol—"I have had since April." Then he was cross-examined, and he was asked about the automatic pistol which you remember was found in the possession of Kennedy at the time when he was arrested on the 25th January. Browne said: "I got this automatic pistol on or about the 7th October, and I gave it to Kennedy, and he gave me in exchange the new revolver. I gave it to him just before he went to Liverpool in December. I was referring to the older revolver when I said to Inspector Berrett that I had bought it in April from a sailor." Now, it is for you to judge whether, in view of the statement which he had made to Inspector Berrett, and in view of the evidence which he gave in his examination-in-chief, you can have any doubt that Browne said originally that he had had that revolver since April in his possession, and that he had bought it off a sailor, but that, when he began to be pressed in cross-examination, he, for the first time, altered that story and said that he had not had it at the crucial

time, namely, on the 26th September—altered his story into one putting the responsibility on Kennedy for the possession of that revolver, and suggesting for the first time that on the 26th September Kennedy, and not he, was the person who was in possession of that revolver. This story of the exchange with Kennedy on or after the 7th October is one which you heard and which no one else ever heard before. Browne was in that witness-box the day before yesterday. Why, if it is true, did not it appear in the statement which he was making to Inspector Berrett, and why, if it is true that on the 21st January he was referring to the older revolver and on the 22nd January was referring to the newer revolver—why was he saying at that time that he declined to give any explanation of where he had got it? His learned counsel has suggested to you that the reason why he said on the 22nd January that he would not tell where he got it was because he was shielding Kennedy, and I think it was in that connection that the learned counsel said: "He is not a cur like Kennedy, at that time he was saying this to shield Kennedy," in other words, that he did not want to disclose to the inspector that he had received that revolver from Kennedy. Ask yourselves why should he be shielding Kennedy at that time, shielding him from what? What was there at that time, on the 22nd January, that required that he should shield Kennedy? What can it mean unless it means that he knew at that time that Kennedy had had some part in the killing of that constable with that particular revolver, and, if that is what it means, how did Browne at that time, on the 22nd January—how did Browne know that Kennedy had had any part in the killing of that constable with that revolver? Now, the matter does not stop there with regard to this revolver. On the 3rd April in this year evidence was given at the police court for the first time that the cartridge found in the car had undoubtedly been fired from what has been so often referred to as the new revolver. On the 10th April Mrs. Browne visited Browne in prison. She apparently took with her to the prison a letter which she had written to "Miss Mabel Currie, 18 Douglas Terrace, Parkwood Springs, Sheffield," an ordinary letter to which no objection, of course, would be taken if it was found upon her when she went into the prison. A friendly letter addressed "Dear Mabel. Sorry I did not answer your letter, but I have been so busy, also I did not realise it was such an expensive journey. I hope you are all keeping well. Needless to say, I did not make my fortune on the Grand National; hope some of you did. Will you let me hear from you by return if possible. Yours sincerely, C. A."—or C. F.—"Browne." And although no explanation has been given of how this came about, I presume you will probably presume that Mrs. Browne must have taken to Browne some ink—I presume it is not a thing prisoners are supplied with in prison—and on the back of this letter Browne wrote in invisible ink these

words: "Can you tell me the date when Pat Kennedy divided a small heap of jewellery "—(if you have a copy, just check me, because it is difficult to read)—" divided a small heap of jewellery in two and I tossed to see which I should have "——

Mr. Roome—" Which I should take," I think it is, my lord.

Mr. Justice Avory—" Which I should take, he the others." Now, these are the important words: " Will you let me know by return the date it was that I exchanged revolvers with Kennedy after he may have shot P.C. Just quote date by return as near as possible, Fred." No explanation has been given as to who it was who was expected to quote the date when revolvers were exchanged. This letter apparently went to some girl we are told of eleven years of age, named Miss Mabel Currie! What did she know about the date when the revolvers were exchanged? If she did know anything about it, why has not she been called to tell us? It is for you to judge. The prosecution, you know, suggest that after the evidence had been given on the 3rd April, from which apparently there appeared to be no escape, namely, that that cartridge found in the car had been discharged from that particular revolver, and Browne having up to that time told the police that he had had that revolver himself since April, there is here for the first time on the 10th or 11th April in this year being made a suggestion that he had got it in exchange from Kennedy. Now, you have got to consider the circumstances of the arrest of Browne on the 20th January, bearing in mind you are not to convict Browne or Kennedy, or any man, upon the ground that you think from his conduct he is a person likely to commit a particular crime, but in a case of this description, particularly in view of the statement made by Browne that he has never fired a revolver in his life, that he only keeps revolvers loaded, at least four—that he only keeps them loaded in order to prevent them going rusty—in view of those statements in particular it is important that you should consider the circumstances which occurred at the time of his arrest. Detective Sergeant Miller, who arrested him, who saw him drive the Angus-Sanderson car into the garage at 7a Northcote Road, Battersea, tells you that he had, after Browne had been taken into custody, gone to 33a Sisters Avenue, where Browne at that time was living, and, in a room pointed out by Mrs. Browne as their room, he found a small nickel-plated revolver fully loaded with six cartridges, and at the police station he put that revolver on the table before Browne, and Browne said, " You have found that, have you, that is no good, it would only tickle you unless it hit you in a vital part. If you had stopped me when I was in the car I should have shot five of you and saved one for myself," and half a minute after he said, " From what I can see of it I shall have to have a machine-gun for you bastards next time." The inspector who had Browne in charge on that evening, and who, as you know, had charged him

Mr Justice Avory

only with stealing a Vauxhall car, found in Browne's pocket a driver's licence in the name of Frederick Harris, and Browne said, "That is a dud in case I am stopped." The inspector adds that when they found in Browne's trousers' pocket twelve cartridges, service cartridges which can be fired from a Webley revolver, Browne said, "That's done it; now you have found them, it's all up with me," nothing at that time having been said about any crime of violence. And they found in his pocket a mask, which was produced, and Browne said, "There you are, you have got it now; that's the lot, you won't find anything else." It was upon that that Detective Bevis came in with the "new" Webley revolver in his hand and the six cartridges which he had taken out of it, and Detective Bevis said, "I have just found this fully loaded in the off-side pocket by the driver's seat of the Angus car outside," and Browne said, "You have found that, have you; I am done for now." Hawkyard, another detective, has sworn he heard Browne say, "That's done it; now you have found them, it's all up with me," and when the mask was found he said, "There you are, you have got the lot now," and when Bevis brought in the revolver Browne said, "Now you have found that, I am done for," and at nine o'clock that evening Browne said, "How many of you were there? All you lot to pinch me? It's a good job you didn't collar me when I was in the car or some of you would have gone west and me after you. I have seen a man shoot six down with a gun like that, and you can take it from me that they didn't get up." He also heard Browne say when the nickel-plated revolver was produced, "That's no good, it would only tickle unless it hit you in a vital part. If you had stopped me in the car I would have shot five of you and saved one for myself," and later on he heard him say, "From what I can see of it I shall have to get a machine-gun for you bastards next time." Now, those are the things alleged to have been said by Browne at the time when he was found in possession of at least four revolvers all fully loaded, and, in view of those statements—in view of the statements that he is prepared to shoot down anybody who attempts to stop him when he is in the car—you must judge whether you believe him when he says in that witness-box that he has never fired a revolver in his life, and that he only keeps them loaded in order to prevent them going rusty. Browne has disputed that he said some of these things; he has admitted that he said others of them; and the explanation which is offered to you of his saying the others is that he thought at the time he might be charged with being unlawfully in possession of firearms without a licence. It is for you to judge whether you think that affords a reasonable explanation of the statements that he made, "It is all up with me," "I am done for now," fearing he is simply going to be charged with an offence for which he is liable to a fine. The next matter—and the learned counsel,

Charge to the Jury.

Mr Justice Avory

Mr. Lever, who never shirks responsibility, has frankly admitted that the next matter I am going to deal with is one which does call for ample explanation on the part of Browne—is his possession of instruments and other things which are alleged to have been in that car at the time when it was stolen on the early morning of the 27th September. Dr. Lovell has given evidence that, although he is not prepared to swear to any one of those things being his, he is prepared to say that, looking at them as a whole, he is satisfied that they were his, and were in that car on the early morning of the 27th September. It is for you to judge whether that identification is not more satisfactory than if he had purported to identify one or two of them by some dent or little mark upon it. Is it not at least a most extraordinary coincidence that Dr. Lovell should have had in his car a collection of instruments and other things, and that you should find in the possession of Browne on the 20th January a collection of things which looked at as a whole Dr. Lovell is able to say "I am satisfied they are mine." And it being admitted, therefore, that Browne is called upon to give some satisfactory explanation of his possession of these articles, let us now turn to Browne's evidence with regard to it. He says on Sunday, the 25th September, he went to the garage at six o'clock in the morning, and there met the boy Billy Geddes, and went with him to 35 Colvin Road, where his wife's sister lived, and that he brought away from there a number of boxes and a bicycle and some bedding, and took them to 33a Sisters Avenue, where he was then living, and it is said that they arrived there about 8.25 in the morning, and among the things which he brought was a wooden box, which is there before you, which looks like a collecting box, and that box had in it a number of instruments, including a pole finder and an inspection lamp, and that he had had that for five years, and that he soldered it, as it appears, five years ago or more, and that inside that wooden box was the metal box, that white metal box which contains some files; and he says the forceps which were found he had for use in his business as a motor engineer or motor mechanic; one particular pair of forceps he has only had since March of 1927. With regard to the bottle of ethyl chloride, he says that was given to him by his brother-in-law at Buckhurst Hill in April of 1927 with other things in the green box which is an imitation of a book. It happens to bear the title "Weapons of Precision." The bandages, &c., he said he had for injuries to his hands, but he had them long before the 26th September. The strapping plaster was his wife's, and none of these articles were Dr. Lovell's. That evidence with regard to fetching the things from Colvin Road and from Buckhurst Hill is corroborated by the witnesses who have been called, by the little boy Geddes, who merely proves that he did fetch something from that address, and by a witness named Kemp who saw the little girl arrive and some bedding arrive

Mr Justice Avory

on that morning, and by the witness Arthur Theodore Finch, the brother-in-law of the accused, the gentleman you remember who had some difficulty apparently in making up his mind whether his religious belief prevented him taking the oath or not, and he gives a very curious account of that bottle of ethyl chloride. He says it was in his possession in 1922, with other things in the green box produced, and that Mrs. Finch had bought them at a sale. Mrs. Browne has been called to corroborate this evidence about these articles, and she says that " on the 25th September," that is the Sunday when these things were fetched, " when the things were unpacked "—you notice that, that they were unpacked on the Sunday, and it may be important in view of another statement she has made, which I will come to presently—" on Sunday, the 25th, when the things were unpacked," she says, " I saw the wooden box produced, which contained the metal box and some of the forceps," and the bandages, she said, are like those that she had to bandage his hand with after he poisoned it.

Now you must turn your attention to the statements which Browne had made, before this case came to trial, to the inspector with reference to these articles, or some of them. On the 21st January Browne said, " I have been shown two pair of what we call plier tweezers," which you know now are forceps, " which I use in my garage. I have also been shown a quantity of freezing fluid which I keep in the garage for cases of injury to my hands; I have also seen a bottle of high volatile spirit—these things are kept in the garage for cases of emergencies and accidents, and I bought them from various chemists, some I bought at Sheffield at a chemist's near the Infirmary, opposite in fact. I have also seen and been shown an inspection lamp, with battery attached. It bears the words ' Sancylight ' on the barrel. I bought it at a street market. I have added to the torch to reduce the light to a point." One of the things you know which Dr. Lovell lost is what you call an ear speculum, and it is suggested that metal article there which is now fitted to the tube is in fact the ear speculum which was lost. That is the statement Browne made on the 21st January, that those things, including the bottle of high volatile spirit, were bought by him at chemists.

Now we come to the question of that white metal case, which Dr. Lovell said was exactly like his, and which contained at the time it was stolen a number of pairs of forceps, medical forceps. What did Browne say on the 22nd January about them? You know what he has said here is that it was in that wooden box which he fetched from his sister-in-law's house on the 25th September. On the 22nd January Inspector Berrett showed that to him and Browne said, " I have been shown a metal case fastening with a catch in the centre; I have only got to say that this is a box in which I kept my files; I got it with a lot of other stuff, I do not wish to say where. I know the tin was kept in

my garage." Why did he not wish to say where? If, in fact, he had obtained it, as he now says, from his sister-in-law only on the 25th September, why did he not wish on the 22nd January to say where he had got that metal case?

Finally, with regard to Brown's case, you have, of course, to consider the evidence given by his wife, Mrs. Browne, that he in fact was sleeping at home on the night of the 26th September, and Browne's evidence to the same effect, Browne's answer, you know, to this case as a whole is that he was never out on that night of the 26th September, but that he was at home at 33a Sisters Avenue, and that he went to the garage in the morning about nine o'clock. Mrs. Browne's evidence is that he went between nine and ten, and you may have to consider—in fact, you will have to consider—upon that point the evidence of the man Dyson, whom I recalled for the purpose of asking a question. First of all, what does Mrs. Browne say on that subject? Having told you here in the witness-box definitely that Browne was at home that night and left in the morning between nine and ten to go to the garage, she is cross-examined on a statement which she made on the 25th January at Tooting Police Station when she was asked if she could give some account of Browne's movements, and she said this, and admits that she said this, "I left my situation on the 20th September, and we went," as she told you, "on the 24th into residence at 33a Sisters Avenue. So far as I can recollect, he slept at home on Saturday and Sunday, the 25th, but occasionally if any one was coming late to the garage, so as not to disturb me, he slept there, where he still had his bed." You will bear in mind that, although Mrs. Browne was at the police court and knew, and Browne and his advisers knew, the essential importance of the question of whether he was out on that night of the 26th September or not, she was not called at the police court. She is called here for the first time, and you must, in considering her evidence, bear in mind what she said on the 21st January. There is nothing there to the effect that he was sleeping at home on the 26th; on the contrary, giving, apparently, some reason why he might have been absent from home on that night, because she said, "But if any one came late to the garage he slept there, where he still had his bed." You must also bear in mind, in considering her evidence with regard to these forceps, surgical instruments, Detective Sergeant Harris has been recalled, and he told you he was the person who took the statement from Mrs. Browne on the 21st January, and that when those forceps, those surgical instruments, were produced she said she knew nothing about the surgical instruments, except she remembered that he had an electric torch, referring to that which is called the Sancylight.

Now, members of the jury, I pass to the fourth question. If upon this evidence as a whole you come to the conclusion that

Mr Justice Avory

Browne in fact was one of the persons in that stolen car on the early morning of the 27th September, and that Browne was the person who fired the shots or any of them at the police constable—if you come to that conclusion, then the final question for your determination in this case is: was the accused Kennedy present at the time aiding and abetting Browne in the killing of the police constable in order to prevent his, or their, arrest? You will bear in mind, upon this indictment Kennedy cannot be convicted merely as an accessory after the fact. An accessory after the fact is one who, knowing that a felony has been committed, renders assistance to the felon after the crime has been committed to enable him to escape, or who harbours him, conceals him, in order to prevent his arrest; that is an accessory after the fact. But Kennedy is not charged in this indictment with being an accessory after the fact; he is charged with being a party to the actual murder, and in law, in the way in which the case is presented to you by the prosecution, he is what is called a principal in the second degree, that means a person who is present at the time when the felony is committed, who is present aiding and abetting in the commission of the crime. A person may be a principal in the second degree, even though he be not actually at the spot where the crime is committed, if he be near enough to render assistance to enable the crime to be committed. The case for the prosecution here is that Kennedy was in fact present with Browne in the car, and the case for the prosecution is that Kennedy was actually aiding and abetting in the commission of this crime, and, if you are satisfied of that, then he is liable to be convicted on this indictment of actual murder just as much as if it was his hand that fired the shots. I was compelled to interrupt the learned counsel who has defended Kennedy—I concur with the learned Solicitor-General in saying that he has defended him with great discretion and most temperately—but I was obliged to correct him when he told you, and apparently he had been under the impression, that to justify the conviction of Kennedy upon this indictment you would have to be satisfied that he knew that Browne had started out on that night with the revolver in his pocket or in his possession, and that he knew beforehand that Browne was going to use that revolver, was going to shoot any police constable who interrupted him. That is not the law. If Kennedy, at the time when that police constable was shot, knew that he was being shot—knew that he was being shot in the execution of his duty—and if you are of opinion that Kennedy was a party acting in concert with Browne in shooting that constable in order to prevent their arrest or further detention, then he is liable to be found guilty on this indictment. It is not true to say that you cannot judge by his conduct after the event, after the actual shooting, whether he was a party to the crime. You may judge of a man's attitude

of mind at a particular moment just as much by his conduct immediately after as by his conduct immediately before. It is quite unnecessary in this case that you should be of opinion that before—if you think Browne and Kennedy were both in this car—that you would be of opinion that before they met the constable they had agreed or had any conversation together on the subject of what would happen if they did meet a constable.

Members of the jury, it becomes necessary now that I should just once more refer to the statement which Kennedy made to the police and to the statement which he has made from the dock. I need not go through it, but, coming to the crucial time, and again—I am in fact almost tired myself of repeating this observation—while I read this remember that it is evidence only against Kennedy, and I am now dealing with Kennedy's case alone. "I remember the day of the 26th September. He" (that is Browne) "suggested I should accompany him to Billericay to assist him in stealing a Raleigh car at the end of the High Street," and you know he goes on to describe how they went to this place to steal the Raleigh car and were startled by a dog barking and so left it, and then they went through the village to the doctor's house, and that they there broke open the garage and took the car out, and that it ran down on its own weight to the road, that they then pushed it about 100 yards, and that Browne said he would go by by-ways and escape the main road, and then went for a long run round country roads at a great speed, and then eventually got on to a main road, on the road to Ongar, that is the road where the constable was. "When we got some distance up on this road we saw some one who stood on the bank and flashed his lamp as a signal to stop. We drove on, and I then heard a police whistle and told Browne to stop. He did so quite willingly, and when the person came up we saw it was a policeman. Browne was driving, and I was sitting on his left in the front. The policeman came up close to the car and stood near Browne, and asked him where he was going and where he came from. Browne told him he came from Lea Bridge Road garage, and had been out to do some repairs. The policeman then asked him if he had a card. Browne said 'No.' He then asked Browne, 'Have you a driver's licence?' Browne again said 'No.' The policeman then again asked him where he came from, and Browne stammered in his answer, and the policeman then said ,'Is the car your's?' I then said, 'No; the car is mine.' The policeman then flashed his light in both our faces, and was at this time standing close to the running board at the off-side, and then he asked me if I knew the number of the car, and Browne said, 'You'll see it on the front of the car.' The policeman said, 'I know the number, but do you?' I said, 'Yes; I can give you the number,' and I said 'T.W.6120.' He said, 'Very well, I'll take particulars,' put his torch back in his

pocket, and pulled out his notebook, and was in the act of writing when I heard a report, quickly followed by another one. I saw the policeman stagger back and fall over by the bank at the hedge. I said to Browne, ' What have you done? ' and then saw he had a large Webley revolver in his hand. He said, ' Get out, quick,' and I immediately got out and went round to the policeman, who was lying on his back, and Browne came over and said, ' I'll finish the bugger.' I said, ' For God's sake, don't shoot any more, the man's dying,' as he was groaning. The policeman's eyes were open, and Browne addressing him said, ' What are you looking at me like that for? ' and, stooping down, shot him at close range through both eyes. There were only four shots fired. Browne then said, ' Let's get back into the car.' We had driven close into the bank, and backed out a little and drove on in the direction of Ongar. He gave me the revolver and told me to load it while he drove on. I loaded it, and in my excitement dropped an empty shell in the car. The other three I threw away into the roads. We drove at great pace through many villages, the names of which I do not know, but I know we went through Buckhurst Hill, and then Bow, and the Elephant and Castle, and while on this journey Browne said, ' Have you loaded that gun again; if you have, give it me back.' I gave it to him, and he kept it on the seat by his right-hand side. He wanted to take the car to the garage, but I persuaded him to have nothing to do with the garage. We drove to Brixton, and went up a road I do not know the name of and drove into a cul-de-sac at about 5.30 a.m. We left the car and came out into the main road, and came by tramcar back to the garage, bringing with us two cases out of the car containing doctors' instruments. These, or the majority of them, were smashed up, and the cases were cut up into small pieces "—you observe the majority of them were smashed up—" the majority of them were smashed up, and the cases were cut into small pieces, which Browne later took out in his car and distributed about the various roads in the country so as to destroy all evidence, and I did not know that he retained any of the doctor's property. I forgot to mention that on our journey after shooting the policeman Browne turned into a tree owing to fog—at a gate. The fog was very dense at that time. I think he damaged the near side front wing. I was very excited at the time. We returned to the garage about 6 a.m. and commenced our work. Dyson arrived at his usual time about 8 a.m., and business carried on as usual. I suggested to Browne that we should go right away from London, as I knew inquiries were sure to be made. Browne said there was no danger, and induced me to stop, and said if I made up my mind to leave him he would blow my brains out. He had the Webley revolver in his hand when he said this, and, as I knew it was loaded, I thought he would. I then later went to a newspaper shop, and

in one I found that Scotland Yard was supposed to have found finger prints, and again wanted to leave, and he said, 'No, you don't, you'll stop here and face it out with me; if any one comes here there will be a shooting match.'' And then he says he remained in the garage until December, and then he went off to West Kirby in December, and he remained till the 13th January, when he came back and lived at Huguenot Place till the 21st January, when he went away again back to Liverpool. Now, that is his description, and he has made a statement from the dock in which he has in effect reaffirmed the statement which he made. That statement also, I tell you, which he makes from the dock is not evidence against Browne; it was made after Browne's case was closed, and Browne was not entitled to make any observation upon it. But, in considering the case of Kennedy, you cannot shut out from your minds the fact that, having the opportunity of going into the witness-box and confirming the statement which he made to the police constable on oath, he has abstained from going into the witness-box, and thereby has escaped the ordeal of cross-examination, and you must ask yourselves, in considering whether Kennedy was a party to the shooting of this constable acting in concert with the man who did shoot him, if Kennedy himself in fact fired no shot—you must ask yourselves what do you think of his conduct immediately after, can you reconcile that with the statement that he has made that he was at the time protesting against the constable being shot, that he was objecting to it? For what purpose do you suppose he reloaded that revolver? We have had no explanation where he got the ammunition from to reload it. His own statement is that Browne said to him, "Load the revolver," and he did so at once, that Browne handed him the revolver for the purpose, and he did it. That he kept it apparently for some little time after he reloaded it himself, and then, when Browne said to him, "If you have reloaded that revolver, give it me back again," Kennedy handed it back to him. What for? Can you doubt that Kennedy was handing that revolver back to Browne reloaded in order that if they met another policeman along the road the revolver might be used in the same way as it had already been used on Police Constable Gutteridge? Kennedy's statement is repeated in the dock, that he was so terrified of Browne that he reloaded the revolver merely because he told him so. If he was so terrified of Browne when Browne is in possession of a loaded revolver, why did not he throw it away directly Browne handed it to him? If he had not been a party to the shooting, and was anxious that no other crime of a similar nature should be committed, why did he not refuse to hand it back to Browne when Browne asked him for it? If he did not throw it away, why did not he refuse to hand it back, and why did not he keep it himself, if he was a man who was

not a party to and did not approve of policemen being shot, or anybody else being shot who might interrupt them on their journey back to London?

Now, it is said by his learned counsel that the statement by Kennedy in all its details has been proved to be true in the material details about their movements on that night, and the learned counsel says, " If you find in the statement made by a person containing, say, for the purpose of argument, twenty-one different statements of fact, and you find twenty of those statements of fact are true, you ought to believe the whole twenty-one, and therefore you ought to believe Kennedy in that statement when he says, ' I was no party to the shooting, I was objecting to it.' " But is that a sound proposition? Just consider the circumstances under which Kennedy made this statement on the 25th January at Liverpool. Browne had been arrested on the 21st January, and news does not take long to reach Liverpool. Is it not at least probable that Kennedy, when he made that statement on the 25th, knew that Browne had been already arrested? May it not have occurred to Kennedy: " Browne is in custody. I do not know what he may have said of this murder; it may be that I shall have no answer so far as being in the car on that night is concerned, and therefore it is necessary for me to find some other answer if I am charged with the murder of Gutteridge "? May it not be that it occurred to Kennedy to say, " Well, I will admit the stealing of the car: I will admit being in the car, but when it comes to the actual shooting the only possible answer I can have to it is to say that I was not a party to it, and, having made that statement, I will remain safely within the four corners of that document and I will not run the risk of having questions put to me in cross-examination," such as the questions I have already referred to, namely, if Kennedy had been in that witness-box he would have been asked, and he must have been asked, " For what purpose do you suppose that revolver was being reloaded? " and " If you objected to P.C. Gutteridge being shot, when you were asked to reload the revolver, why did not you throw it away? " and " Where did you get the ammunition from? " and Kennedy would have been asked, " If the rest of your statement is true, will you tell us who took the revolver out on that night, the 26th? " We have been told that both the Webley revolvers were hanging on pegs, or nails, in the room in the office where Kennedy slept, and Kennedy would have been asked, " Before you started out that night were both or was only one of those revolvers taken out, and who took it? "

Now, that is the case which you have to consider with regard to Kennedy, and I do not think, particularly having regard to the commendable attention with which you have listened to all the details in this case, that I can assist you further. You must now

take the whole of it—and look at the case as a whole—into your consideration. If you are left in any reasonable doubt as to the guilt of both or either of these accused men, then do not hesitate to say that they are not guilty, do not be deterred by the view of what public opinion in this case may be—public opinion is often, like rumour, a lying jade—if, on the other hand, you are satisfied beyond reasonable doubt that both of these accused men were guilty of shooting that police constable while he was in the execution of his duty, then, equally fearlessly, do not hesitate to say so, and if you can see reason to distinguish between them, equally fearlessly do not hesitate to say so.

Will you now consider your verdict? You may, of course, take with you any of the exhibits which you should desire.

The Foreman of the Jury—We should like them, my lord. (Handed.)

At 12.52 the jury retired, a bailiff being sworn to take charge of them, and returned into Court at 3.10.

The Clerk of the Court—Members of the jury, have you agreed upon your verdict.

The Foreman of the Jury—We have.

The Clerk of the Court—Do you find the accused Frederick Guy Browne guilty or not guilty of the murder of George William Gutteridge?

The Foreman—Guilty, sir.

The Clerk of the Court—Do you find the accused William Henry Kennedy guilty or not guilty of the murder of George William Gutteridge?

The Foreman—Guilty.

The Clerk of the Court—You say they are both guilty, and that is the verdict of you all. Prisoners at the bar, you severally stand convicted of murder; have you, or either of you, anything to say why the Court should not give you judgment of death according to law?

Prisoner Browne—I have something to say, but it is not according to the law of the Court; shall I say it?

Mr. Justice Avory—Yes; I will hear anything you wish to say.

Prisoner Browne—The Court, as you say, according to the law, has found me guilty of wilful murder; I cannot alter the Court, I would not desire to. I admit here now that counsel has acted very nicely and very fairly, as far as I am concerned, I admit. I would not wish to be tried by a better judge, but the jury have had stuff given to them that is not genuine; it is the

fault of the way it has been put together. It will come out later on that I had nothing to do with it, but I am not going to argue the point, I am not going to try to prove it to you, because the simple reason is there is something hanging over my head, that if I got off this I should get penal servitude for something else, which is far worse than what is offered me. I am quite content to leave it, but I am not guilty according to the One above that knows. I am not guilty, but the Court says I am. I am quite content, my conscience is clear.

Prisoner KENNEDY—My lord, nothing I can say now will alter the verdict which has been arrived at. I am going to say this, it is pre-ordained, it was fate, and you, my lord, however fairly you may have tried me, and members of the jury, are mere accessories of that fate. I say it in no mere spirit of bravado when I say I am not afraid to die, but I meet it willingly, because I have the certain knowledge that in the hereafter I will be re-united for all eternity to the one darling girl who has stuck to me all through this trouble. I wish to return my thanks for the able way in which I have been defended. There is one final request I want to make, may I have an interview with my wife?

Mr. Justice AVORY—I will consider that.

Sentence.

Mr. Justice AVORY—Frederick Guy Browne and William Henry Kennedy, the jury have found you both guilty of a murder which your learned counsel have both been constrained to describe as a most foul and brutal murder. The jury have found that verdict without knowing anything about your previous characters,[1] and without knowing anything of any particular offence that either of you may have committed before this crime was committed. The sentence of the Court upon you, and each of you, is that you be taken to a lawful prison and thence to a place of execution. That you be there each of you hanged by the neck until you be dead, and that your bodies respectively be buried within the precincts of the prison in which you shall have been last confined before your execution, and may the Lord have mercy upon your souls.

The CHAPLAIN—Amen.

Mr. Justice AVORY—And it is further ordered by the Court that you, Frederick Guy Browne and William Henry Kennedy, do stand committed to the custody of the Sheriff of the county of Essex, who is hereby charged with the execution of this judgment.

The prisoners left the dock.

[1] The reference to his leaving prison, &c., in Kennedy's statement was not read by any of the counsel.

Mr. Powell—May I make an application that Kennedy may see his wife, if it is in accordance with your lordship's wishes?

Mr. Justice Avory—That depends on whether it is in accordance with the Prison Regulations, and only in that event.

Mr. Powell—If your lordship pleases.

Mr. Lever—My lord, I make the same application with regard to Browne.

Mr. Justice Avory—Same answer.

Mr. Roome—My lord, I am instructed by the Director of Public Prosecutions respectfully to invite the attention of your lordship to the meritorious services rendered in this case by Chief Superintendent Berrett and the officers under his command, including the officers of the Essex Constabulary, particularly in view of the allegations made against Superintendent Berrett and his officers with regard to obtaining Kennedy's statement; I do not mean at this Court.

Mr. Justice Avory—First of all, I think it right to say that in my opinion there never was any foundation for the suggestions which were made against either Inspector Berrett or any of the police officers that the statement made by Kennedy had been obtained by any improper means; whether the suggestions which were made in cross-examination at the police court were due to the ingenuity or the imagination of the advocate who there put those questions, or whether they were in fact inspired by Kennedy himself, I am satisfied that there is no foundation for them.

Mr. Powell—May I say that the solicitor who appeared at the police court is the solicitor who is instructing me to-day, and has informed me that the questions were put upon instructions which were in writing and exist at this moment.

Mr. Justice Avory—I accept that. It was obvious that in the interest of Kennedy at that time he should, if possible, prevent that statement from being put in evidence, and those suggestions were no doubt made with that object. With regard to the conduct of the police generally, the result in this case is the best testimony to the great ability which has been shown by all of them, and all those who have been concerned in this investigation are, in my opinion, deserving of the highest commendation.

APPENDICES.

APPENDIX A.

Before the Magistrate.

Following their arrest Browne and Kennedy appeared at the South-Western Police Court, charged with the stealing of the Vauxhall car, this charge, on 13th February, being dropped for that of murdering Police Constable Gutteridge at Stapleford Abbotts on 27th September, 1927.

The opening stages of the proceedings were interesting, the question of the jurisdiction of the Court and of the admission in evidence of the statements made by Browne and Kennedy to the police being argued for and against.

With Sir Travers Humphreys (now Mr. Justice Humphreys) for the prosecution was Mr. H. D. Roome; Mr. Edmond O'Connor appeared for Browne; and Kennedy was defended by Mr. O. B. Tompkins, solicitor. Sir Archibald Bodkin, Director of Public Prosecutions, had a seat beside counsel. On the bench beside Mr. Sandbach, K.C., were Captain J. A. Unett, Chief Constable for Essex, Captain F. H. L. Stevenson, Governor of Brixton Prison, and Dr. Watson, medical officer of the prison.[1]

Sir Travers Humphreys, opening the case for the prosecution, said he did not propose now to proceed further with the charge of stealing the Vauxhall motor car, though it would be necessary for the magistrate to hear something of what the prisoners said when that charge was made, bearing on the charge of murder which was the one on which he proposed to proceed. He continued:

I propose, therefore, to confine the evidence in this case to such evidence as will be relevant to the charge of murder. That evidence will of necessity disclose other charges against them. The murder of Police Constable Gutteridge took place in Essex. One of the further charges I refer to is a charge against Browne under section 7 of the Firearms Act, 1920, of having in his possession firearms and ammunition with intent by means thereof to endanger life. That charge arose in London in the jurisdiction of this Court and of the Central Criminal Court. There will be a further charge against Kennedy of a similar character under the same section. That arose in Liverpool. There will be a further charge against both of them of stealing a Morris-Cowley motor

[1] These excerpts are taken from *The Times*, 14th February, 1928.

car. That occurred in Essex. There will be a further charge against Kennedy of attempting to murder William Guthrie Mattinson, a detective sergeant of the Liverpool Police. That occurred in Liverpool. All these matters will be necessarily introduced in the evidence on the charge of the murder of Police Constable Gutteridge in Essex.

In these circumstances section 11 of the Criminal Justice Act, 1925, seems to be material, that section providing that a person charged with any indictable offence may be proceeded against, tried, and punished in any county or place in which he was apprehended or is in custody. Sub-section (2) of that section further provides that where a prisoner is charged with two or more indictable offences he may be indicted in respect of them in any place in which he could be indicted in respect of any one of them. In these circumstances the prosecution will invite you to commit these two persons on these charges to the Central Criminal Court. I now hand in to you that which requires no proof but is a necessary part of the case under the Firearms Act—the certificate of the Attorney-General of these two charges having been made.

The MAGISTRATE—Before we consider that, have you, Mr. O'Connor, or you, Mr. Tompkins, any observations to offer as to whether I have jurisdiction in this case?

Mr. O'CONNOR—In my opinion you have not. I propose to draw your attention to what I see to be relevant on that point. The charges against Kennedy are regarding offences committed in Essex and in relation to offences committed in Liverpool. In some portion of this case I shall have to raise the point of the desirability of these two defendants being tried separately. The reason for that will become apparent later on when, as I presume, my friend in the course of his opening will refer to statements in possession of the prosecution. I should take exception to these statements being read, and I shall apply that defendants be tried separately.

[Mr. O'Connor quoted from the comparatively recent case of *King* v. *Seymour*. Here it was stated that where a statement by one defendant, intended to be given in evidence, implicated another, the Court of trial should consider whether they should not be tried separately.]

Mr. SANDBACH—What have you to say about my jurisdiction?

Mr. O'CONNOR—At the present moment I say Kennedy is not in custody within the jurisdiction of this Court at all. He was taken into custody at Liverpool in respect of offences there.

Sir TRAVERS HUMPHREYS—You are wrong in your facts. He was taken in charge in Liverpool for stealing a Vauxhall motor car.

Mr. O'CONNOR—Which is now abandoned. If my friend keeps to that charge I cannot raise any objection, but he has abandoned that charge. There is nothing on which Kennedy can be tried here.

In reply to the magistrate, Mr. TOMPKINS said he had no objection to offer.

Sir TRAVERS HUMPHREYS—With regard to your jurisdiction, I might remind you that years before that Act was passed you had always jurisdiction. The only necessity for that statute and that section at all was to give you jurisdiction to commit to the Central Criminal Court rather than to three or four different Courts.

Mr. SANDBACH (after consulting a copy of the Act)—I am against you, Mr. O'Connor.

Sir TRAVERS HUMPHREYS then outlined the case for the Crown. After describing the crime and the arrest, he said:

Chief Inspector Berrett, who had been in charge of the inquiries, was informed when Browne was detained on a charge of stealing the motor car. He told Browne he had been making inquiries concerning the murder of Police Constable Gutteridge, and asked him if he could account for his movements on the night of 26th September. Browne gave him some account in a statement which I will not read now. He said, however, he had been since about June——

Mr. O'CONNOR—I take exception to this statement on the ground that it is not admissible. In my submission the onus is upon the prosecution to show that any statement taken was made without any improper inducement to the man when he made it. Then you can give it in open Court. In my submission no police officer has any right to ask any man any question at all once already arrested, either on that matter, the matter for which he was arrested, or any other.

[Mr. O'Connor quoted authorities in support of his objection, and read a portion of Browne's statement that said, "I was told by Chief Inspector Berrett that he was making inquiries in regard to the murder of P.C. Gutteridge. He has cautioned me that anything I say will be taken down and may be given in evidence." Mr. O'Connor submitted that that was not a proper caution, as it did not conclude with the words "against you."]

Sir TRAVERS HUMPHREYS said it should be known in these days that there was no such thing as unfairness on the part of the prosecution. He read rules approved by His Majesty's judges, stating that the caution should end with the words, "and may be used in evidence," and that care should be taken to avoid any suggestion that the person's answers could only be used in evidence against him.

The MAGISTRATE ruled that the statement was clearly admissible.

Sir TRAVERS HUMPHREYS—Kennedy was brought to London, and on 26th January he was seen by Chief Inspector Berrett. Mr. Berrett told him he would be charged with stealing a Vauxhall motor car, adding, "I have been making inquiries for some time

past respecting the murder of P.C. Gutteridge. Can you give me any information about that occurrence?" Kennedy answered, "I may be able to tell you something. Let me consider. Can I see my wife?" He was told he could. His wife came in and to her Kennedy said, "You know, my dear, that when I was arrested at Liverpool yesterday I told you I thought it was something more serious than stealing a car. These officers are inquiring about that policeman murdered in Essex." His wife said, "You didn't murder him, did you?" Kennedy replied, "No, I didn't, but I was there, and know who did." Then he said, "If I am charged with murder and found guilty I shall be hanged and you will be a widow. On the other hand, if I am charged and found guilty of being an accessory after the fact I shall receive a long sentence of penal servitude and I shall be a long time away from you. Will you wait for me?" The answer of the wife was, "Yes," and Kennedy said, "What shall I do then?" She said, "Tell these gentlemen the truth." Kennedy said, "All right," and then turning to Inspector Berrett, without any request from the inspector, said, "You can take down what I want to say and I will sign it." He then made a statement.

Mr. Tompkins objected to the statement being read. What was said in one statement, he urged, was not evidence against the other defendant, and it should not be read if it implicated him.

The Magistrate—Any statement made by Kennedy is evidence against Kennedy alone. I shall not accept it as evidence against Browne, and if the only evidence against Browne is a statement by Kennedy I shall not commit Browne for trial.

Mr. Tompkins said there was another point he wished to raise—a very serious one. He suggested that the document was not evidence even as against Kennedy. He did not want to read any part of the document, but he had underlined eight words in the second line.[2]

Sir Travers Humphreys read the portion indicated, and said he did not propose to read that. He was going to read the whole except those words.

Mr. Tompkins next raised the point whether the statement was a voluntary one. He said it was not. When it was taken down my client was in such a state of mental helplessness that he did not know what he was doing or signing. He had been arrested at 11.30 on the evening of 25th January at Liverpool. He had been interrogated. He had not slept. His bed was taken away from him that night. He was kept in a cell until two o'clock the next day, when he was put on a train for London. He arrived in London about six o'clock, having had no sleep and nothing to eat. He was then driven straight away to Scotland

[2] These words will be found on p. 15, line 11.

Yard, where he remained until this document was eventually obtained.

On the evidence in my possession it is quite clear that this man was not in a fit state to make any statement. This statement was pumped out and——

Sir TRAVERS HUMPHREYS—What did you say?

Mr. TOMPKINS—Pumped out.

Sir TRAVERS HUMPHREYS—How?

Mr. TOMPKINS—By four hours of interrogation, of promises, hopes, and threats.

The MAGISTRATE—If I am persuaded that threats or promises or hopes of special favour were held out to him, I shall agree with you that it would be inadmissible as evidence. I shall want evidence as to how it was taken.

Sir TRAVERS HUMPHREYS said Kennedy's statement was taken in the presence of his wife, and Kennedy said, "I want you to take down what I am going to say." This was how it began: "About 11.30 p.m. on 25th January I was arrested at Liverpool on a charge of being concerned in stealing a motor car. I have to-night, 26th January, at 8 p.m., been interviewed by Chief Inspector Berrett, and told that he is making inquiries into the murder of P.C. Gutteridge at Stapleford Abbotts, and asked if I can give any information respecting it. I wish voluntarily to tell you what I know, having been cautioned that what I do say may be taken down in writing and may be given in evidence." That is taken down, and is signed by him.

Mr. O'CONNOR then proceeded to argue that the prisoners should be tried separately, and that the statement could not be given in evidence against anybody because, he suggested, it was made in response to interrogation by police officers. The relevancy of that statement was, he understood, not in so far as it affected Kennedy himself, but in so far as Kennedy gave a description which would be urged against Browne. If you had had that statement before you, you would see at once that, so far as Browne is concerned, it is impossible to estimate the damage that may be done to him by this statement. I do not object to any portion of that statement going into evidence so far as it goes into matters which Kennedy deals with prior to certain matters which implicate Browne.

After further argument the MAGISTRATE said he would listen to the circumstances in which the statement was given in evidence, and then would give his ruling.

Sir TRAVERS HUMPHREYS—I was going to suggest the same course. I will say a few words of explanation when the statement is put in.

[Curiously, he was unable to do so, as before the Court met again he was raised to the bench. On the resumption, on 21st February, Mr. H. D. Roome conducted the case for the Crown.]

Mr. Roome[2]—At the last hearing objection was taken to the production of a statement made by Kennedy on the ground that Kennedy had been kept without food or sleep, and that the statement had been pumped out of him by promises, hopes, and threats. These allegations, which were made on the responsibility of the solicitor representing Kennedy, naturally received wide publicity, and I propose, sir, to-day to turn aside for a while from the chronological order of evidence in order to call evidence before you as to the history of Kennedy's movements and the manner in which he was looked after from the time of his arrest down to the moment when he made his statement. I shall submit to you that this evidence will establish that he had several hours' sleep, that he had all the food he desired, that the statement was made at his own request after being cautioned, and that he made it at leisure, and that after he had finished it he made several alterations, and finally signed it as representing what he wished to say. Then I shall submit, sir, that the statement is admissible in evidence.

Detective Inspector Kirschner, of Scotland Yard, the first witness, said that on 24th January last he went to Liverpool, and the next day, at 11.20 p.m., after keeping watch on a house in Copperas Hill, along with other officers, he say Kennedy struggling in the street with Sergeant Mattinson, of the Liverpool City Police. He heard Sergeant Mattinson shout, and with other officers he ran to where Mattinson was holding Kennedy, and as they did so Mattinson fell backwards, at the same time holding an automatic pistol above his head.

[At this point the pistol was produced from a packet of exhibits which are to be shown in the case. It is a black, ugly-looking weapon. It was passed to Inspector Kirschner, who examined it and said, "That is the one."]

Sergeant Mattinson just managed to call out, "I have got it," and then collapsed in the arms of another officer who had come up. Three of us then took Kennedy to Warren Street Bridewell, close by. On the way he said, "It's all up now. You have got me. How many more of you want to hold me?" At the station I was handed the automatic pistol produced by Sergeant Mattison, who came to the station shortly after we had arrived.

Mr. Roome—Did you examine it?

Inspector Kirschner—I examined the automatic. It was loaded, and the cartridge case was observable in the breech. The safety catch was up—that is, at safety. I searched the prisoner, and then had him detained at Warren Street Station.

Did you find anything on him?—Yes, sir. One five-pound Bank of England note, a £1 note, five 10s. notes, 9s. in silver,

[2] This account is taken from the report that appeared in the *Evening News*.

and an electric pocket lamp. Nothing connected with the revolver was found. Kennedy was only partially dressed, and asked for some of his other clothing. I went back to the address in Copperas Hill. I later saw Kennedy at 1.30 a.m. on 26th January at Warren Street Police Station, and said to him: "I am a detective officer from Scotland Yard. I am going to arrest you on a charge of being concerned with a man named Browne, now in custody, in stealing a Vauxhall motor car from Tooting in November last, and I shall take you to London. I cautioned him, and he was then taken by motor car from Warren Street to Dale Street Police Station. On the way he said: "Yes; I had premonition that something was going to happen to me to-day, and I intended going. You are lucky to get me. While I was in the house I heard the taximan being told to drive to the next street, and that gave me the tip." He was later taken to the cells in Dale Street. He gave his name as William Henry Kennedy, aged forty-two, of no fixed abode, compositor."

By Mr. Roome—Was he allowed to see his wife?—Yes, sir.

At what time that morning did you see him?—About 3.45 a.m.

When did you see him again?—When he was conveyed to the train by motor car about 1.30 p.m. on the 26th.

Inspector Kirschner—Kennedy travelled to London by the two o'clock train from Lime Street, and his wife accompanied him. On the journey he had sandwiches, cakes, and tea soon after leaving Liverpool, and again before reaching Euston. From Euston he was taken by car to Scotland Yard. At no time on the journey was any reference made to the murder of P.C. Gutteridge. Afterwards he was removed from Scotland Yard to Cannon Row Police Station. That would be at about 12.30 in the morning.

By Mr. Roome—Did he say anything to you about the treatment he had received?—He thanked us. He made no complaints.

Cross-examined by Mr. O'Connor—You went to Liverpool with the intention of arresting Kennedy for the theft of a Vauxhall car only?—Yes. Those were my instructions.

Was he ever charged with any offence at Liverpool at any of the police stations?—No. The intention was not to charge him with the offence until he was in London.

And if the charge was to be one in connection with stealing a motor car at Tooting, the proper station would be at Tooting?—Yes.

You never took him to Tooting?—No; he was detained at Cannon Row during the night.

Why was he taken to Scotland Yard or Cannon Row and not to Tooting?—He was brought to Scotland Yard and seen by Chief Inspector Berrett.

Why was not the usual procedure followed? Why was he taken to Scotland Yard and not to Tooting?—For the purpose of being seen by Chief Inspector Berrett.

[Browne here turned right round in the dock and smiled broadly at Chief Inspector Berrett.]

Cross-examination continued—Is it usual, when a man is taken into custody, to charge him with the offence for which he has been arrested at a police station as soon as possible?—It is usual.

Do you know as a fact that Kennedy was not charged with being concerned in stealing that motor car until forty-eight hours after his arrest?—As far as I know, that is true.

And do you know that in between the time of his arrest at Liverpool and the time the charge was made against him on 27th January a signed statement was taken from him?—I know that on the evening of the 26th a signed statement was taken from him.

By Mr. Oscar Tompkins—The first time I saw Kennedy was when he was in the custody of Sergeant Mattinson. I did not see him actually until I saw him struggling with Sergeant Mattinson, but I know now that he was in the house.

You agree that Mattinson had a revolver in his left hand?—Yes, he had when I saw him.

I put it to you that Sergeant Mattinson came up behind Kennedy with a revolver in his left hand, grabbed Kennedy by the collar, and struck him with his other hand?—I did not see that. There might have been twenty policemen engaged in watching for Kennedy.

Was he kept in the room at the station with six or seven officers until 4.15 in the morning?—No. I told him the charge and took him to Dale Street Station, which is the chief police station.

I suggest that is not so, but that his wife was taken to Dale Street?—She was brought there after him.

I suggest that you and five or six officers interrogated Kennedy from 11.45 p.m. till 4.15 a.m.?—No.

And during that time Mrs. Kennedy was being interrogated in another room?—A statement was being taken from Mrs. Kennedy in a different part of the building altogether.

No statement was asked from Kennedy, but during that time one was taken from Mrs. Kennedy?—Yes.

I put it to you that at 4.15 in the morning Superintendent M'Coy came in to where you and Kennedy and five or six other officers were and started to question Kennedy?—Not to my knowledge.

And that the interrogation went on until five o'clock in the morning?—No.

You say that on the way to the station Kennedy said, "It's all up now; you have got me. How many more do you want to hold me?" What was that in answer to?—It was merely a statement made to me. We were going along then to Warren Street.

Inspector Roberts, myself, and Sergeant Duncan had hold of him, and several others came up.

You say nothing whatever was said to him?—Yes.

I suggest it was five o'clock in the morning on the 26th when he was taken to the cell?—In my recollection it was about 3.45.

Will you tell me what he was doing between 11.30 and 3.45?—He was detained at Warren Street while I was making an examination of his room and getting possession of his property.

That took you three hours. What were you doing between 1.30 and 3.30?—A statement was being taken from his wife. He was in a room upstairs.

Was he given any bedding?—I cannot say.

Can you tell me why Mrs. Kennedy was asked for a statement? Was it at that time contemplated making any charge against Mrs. Kennedy?—Oh, no.

Do you know if that statement was one regarding the Gutteridge murder?—No, it was not.

He had said when he went to the station, "I have no grudge against the police"?—Yes, I heard him make that statement.

He did not resist in any way?—He had little chance to resist then. He was resisting Mattinson until he got up.

He did not struggle?—No; three of us had hold of him.

When you said you were going to arrest him for stealing a Vauxhall car did you then invite him to make a statement?—No, sir; I cautioned him.

During the whole time he was at Warren Street and at Dale Street no statement was asked for?—No, sir.

You really mean that?—Absolutely.

How did you caution him?—I told him, "I must caution you that anything you say may be given in evidence."

You did not say, "You are not obliged to say anything?—No.

Constable M'Neil, a warder at Bridewell (the chief police station at Liverpool) said he was on duty when Kennedy was brought in at five minutes to four in the morning. He was placed in No. 1 safety cell, where there was a wooden bed, and he was supplied with two blankets.

By Mr. Roome—When next did you visit him?—About ten minutes past four.

What was he doing?—He was sound asleep. He was snoring. I visited Kennedy at regular intervals of half an hour until five minutes to six, and he was asleep all the time. While in my charge Kennedy was not interrogated by any one.

Constable John Charles Davis, another Liverpool warder, said that he saw Kennedy lying on the wooden bed in the cell apparently asleep. At 8.30 he gave him a pint of cocoa, which

he drank, but he refused to have any bread. Every half-hour afterwards, when he looked through the observation window of the cell, Kennedy still seemed to be slumbering. At 1.10 p.m. he took to Kennedy the regulation dinner of 2 ounces of cooked meat, boiled potatoes, meat extract, and bread, three-quarters of which he ate.

Chief Inspector BERRETT was then recalled. He said that at 7 p.m. on 26th January he was at Scotland Yard with Detective Sergeant Harris and saw Kennedy detained there. I said, "I am Chief Inspector Berrett, and this is Sergeant Harris. You are detained on a charge of being concerned in stealing a Vauxhall motor car, but I have been making inquiries for some time past respecting the murder of P.C. Gutteridge in Essex. Can you give me any information about the occurrence?" Kennedy said, "I may be able to tell you something, but let me consider a while." He then held his head with both hands, his elbows resting on the table. After being in that position some time he said, "Can I see my wife?" I said, "Yes, she is in the building." His wife was brought into the room by Inspector Kirschner, and when Kennedy saw her he said, "Well, my dear, you know when I was arrested at Liverpool yesterday I told you I thought there was something more serious at the back of it. Well, there is. These officers are making inquiries about that policeman murdered in Essex." Mrs. Kennedy exclaimed, "Why, you didn't murder him, did you?" Kennedy replied, "No, I didn't, but I was there and know who did. If I am charged with murder and found guilty I shall be hanged and you will be a widow. On the other hand, if I am charged and found guilty of being an accessory after the fact, I shall receive a long sentence of penal servitude and be a long time away from you. Will you wait for me?" Mrs. Kennedy said, "Yes, love, I will wait for you any time." Kennedy said, "Well, what shall I do then?" Mrs. Kennedy said, "Tell these gentlemen the truth of what took place." Kennedy replied, "All right, I will." He then said to me, "You can take down what I want to say, and I will sign it." I then duly cautioned him, and he made a statement, which was taken down by Sergeant Harris.

By Mr. ROOME—What was his appearance with regard to being upset or distressed?—Quite normal in every way. Quiet, rational. He thought very deeply indeed before he said anything at all.

Was he hurried in any way over his statement?—Not in the least. I have never taken a statement from any person who exercised more care.

About how long was he in making it?—I should think he began about ten minutes or quarter past seven and finished about eleven.

By Mr. SANDBACH—Was there anything in the nature of suggestion or cross-examination by you or any other officers?—During that time he would keep having half-sheets or full sheets read over to him, and I had to wait until he had decided what else to say. He was most careful in considering everything he said. I never put questions to him in any shape or form.

Did any other officer?—Not at all.

By Mr. ROOME—Did he make any corrections?—After the long statement he wanted to amend it with reference to the two Webley——

[Mr. Roome interrupted to point out that he was referring to the long statement.

Inspector Berrett then said that Kennedy amended portions which he initialled. There were 19 pages in all.]

Mr ROOME submitted he had now proved there were no circumstances which prevented that statement from being admissible in evidence.

By Mr. O'CONNOR—Browne was one of many people he had been wanting to interview to account for his movements on the night of the Gutteridge murder, and as soon as he knew Browne was in custody he took advantage of the fact.

Did the statements with regard to firearms and ammunition alleged to have been made by Browne when he was arrested convey anything to your mind with regard to the Gutteridge murder?—Not at first.

May I take it that you did not regard these statements in any light as an admission by Browne that he was implicated in that particular murder?—I took two statements from him: one on the night of his arrest with regard to the first Webley found, ammunition, and certain surgical instruments. As a result of two other revolvers and ammunition being found subsequently I took another statement from him. I had a suspicion then that he might have been connected with the Gutteridge murder.

If I may say so, you handled the case with extreme tact, but I have to ask you whether you had any direct suspicion that the man brought back from Liverpool by Inspector Kirschner was the man who worked in Browne's garage?—I had; but there were other men employed in Browne's garage. It had to be proved which man was taking a particular part there. It had to be cleared up.

I suppose Inspector Kirschner is right when he says he was told to bring Kennedy along to Scotland Yard when he got him to London?—Certainly.

That was so that he might be interviewed with regard to the Gutteridge murder?—Certainly.

That is not the normal course of things in the case of a charge like the stealing of a motor car?—It is in some cases. I have charged a man at Sutton who ought to have been charged at Croydon. The charge can be taken at various places.

Cross-examined by Mr. Tompkins—I suggest to you that Kennedy was brought straight from the station into your room at Scotland Yard, where you were sitting with Inspector Savage? —That is not so. I was having tea in Whitehall when Kennedy arrived, and there was no Inspector Savage at the Yard. He was Superintendent Savage.

Will you swear Superintendent Savage was not there?—Just after I had begun to interview Kennedy I think Superintendent Savage came in and spoke to me on another matter. Nothing to do with this case at all.

Who was present when this statement was taken?—Sergeant Harris. Nobody else. Mrs. Kennedy was brought in and she was in the room kissing her husband, and he was kissing her for some minutes, but she was not in the room while the statement was taken. Kennedy was normal and rational in every way. If he was worried he was not showing it outwardly.

When he arrived at Scotland Yard he was a sick and tired man?—Not in any way whatever.

Why could not this statement wait till the following morning? —Why should it wait?

Because, answering your questions, he was a tired man?—He was not tired. If I thought a man was not in a fit state to make a statement I should have been the last person in the world to have had it taken.

It would not have mattered much if he had been put in a cell till next day?—Well, it was not done.

Kennedy did not leave Scotland Yard till 12.30 a.m.?—That was because he wanted to have another hour with his wife, which was granted to him.

Was it not because he was being interrogated?—Not at all. He made a request to be allowed to see his wife, and he was with her for about one hour.

When Kennedy arrived was it not Superintendent Savage who spoke first?—Superintendent Savage has not spoken to Kennedy as far as I know.

I suggest that Superintendent Savage said to Kennedy, "Tell us what you know about it?"—I have said once that to my knowledge Superintendent Savage has never spoken to the prisoner.

Did not Kennedy say, "What are you talking about?" and Superintendent Savage replied, "You —— well know what we're talking about—the shot policeman"?—I can only deny it. No question was ever put to prisoner by Superintendent Savage in my presence.

Was Kennedy not in the room four hours before he asked to see his wife?—Mrs. Kennedy could satisfy you as to that if she could be called.

The statement was not taken until 10.15?—Do you suggest that those 19 sheets could be taken between 10.15 and 11.30?—I say it is incorrect.

I must formally put it that after, first of all, refusing to make a statement, Kennedy was addressed by Superintendent Savage, who said, "You will swing if you don't own up, because Browne has told us you have done it"?—He never refused to make a statement, and Superintendent Savage never said such a thing.

Did not the following conversation take place:—

"Kennedy—I don't know what you are talking about.

"Superintendent Savage—You know about the shot policeman.

"Kennedy—I don't.

"Superintendent Savage—If you don't open your mouth you will swing. Driscoll [the Cardiff murderer] swings tomorrow, and if he had opened his mouth he would not have swung. We have got enough evidence now to swing the pair of you"?

—I do not agree with this version given by Kennedy of the interview.

Did you say, "Kennedy, who was it shot him?—Untrue, absolutely untrue.

And did you say, "We know you can't drive, and it was the driver who shot him"?—Untrue, untrue.

Did you add, "I think you will come out of it all right. You have no need to fear. You will not have the capital charge made against you. Browne is an expert gunman"?—Untrue, absolutely untrue. I said nothing of the kind.

Did you say, "And he has probably led you away because he told us that had he got hold of his revolver when arrested he would have shot the lot of us, and by God he would have done it"?—Chief Inspector Berrett shook his head.

Did you say that Browne was the dominating mind, that he had dominated the minds of several people?—Nothing of the kind.

The whole of that is pure fabrication?—All imagination and invention. No such thing was said in my presence.

I suggest to you that these threats were uttered, these promises were made, and that the interrogation went on from 6.30 until ten o'clock?—Nothing of the kind.

And that first of all you would have ten minutes of it, and then Superintendent Savage would take it up, and so on alternately?—Sergeant Harris was writing down the statements from about a quarter past seven until ten minutes past eleven, and no other person entered that room.

I suggest to you that as threats appeared to have no effect on Kennedy, but that his resistance being pretty well broken—almost to breaking point—that you then played your last card and you tried playing on his feelings in this way. You said, "Your wife is outside"? Perfectly untrue. I would not take such a liberty with a prisoner.

Did you know he had been married recently?—Yes.

I suggest you said, "Your wife is outside, and if you don't open your mouth you will have to tell her you will be charged with murder"?—Nothing of the kind.

And then you said, "But if you make a statement you will only be charged as an accessory after the fact." You are on your oath, and you want to be fair to this man?—I am always fair.

And will you swear you said nothing like this?—Nothing at all.

Did not Kennedy thereupon say, "Can I see my wife"?—I was astounded when I heard him addressing his wife and telling her about an accessory after the fact, of which he appeared to have a great knowledge.

I suggest he first asked to see his wife about 10.15 a.m.?—Nothing of the kind. I am convinced I have given a true account of the conversation which Kennedy had with his wife when she came into the room. I am also certain that Kennedy definitely used the words "I was there" when he said he knew who had shot P.C. Gutteridge.

Where do you think he got that expression, that legal term, "accessory after the fact"?—The only explanation I can give is that he may have got it from some other source. I don't know what books he reads. He is a compositor. He certainly could have read everything about it in the papers. He astounded me when he made that statement to his wife.

The statement "accessory after the fact" is not a well-known term to some lawyers. Do you think the man in the street knows about it?—I think the man in the street knows a great deal more than he is credited with.

I don't quite understand why Mrs. Kennedy was taken to Scotland Yard?—Because she explained to the police at Liverpool that she was stranded. This is not the first time we have taken wives under our wing, so to speak, and found shelter for them.

Shelter at Scotland Yard?—No. Only until lodging could be found for them.

Was she there to induce her husband to make a statement?—That may be the construction put upon it by the defence, but certainly it was never in the minds of the police officers. Kennedy had asked to see his wife.

He knew she was there?—She had travelled with him.

Don't you think it would have been better if he had seen a solicitor?—If he had asked to see a solicitor every facility would have been given.

Do you think it was wise to allow this conversation to go on with regard to the statement?

By the MAGISTRATE—Should you have had any right to stop the conversation?—I should not think of stopping such a thing.

[The statement alleged to have been made by Kennedy was then read.]

APPENDIX B.

The Appeal.

The appeals made by Browne and Kennedy were heard on 22nd May in the Lord Chief Justice's Court by the Lord Chief Justice (Lord Hewart), Mr. Justice Salter, and Mr. Justice Branson. The Solicitor-General, Mr. H. D. Roome, and Mr. G. B. M'Clure appeared for the Crown; Browne was represented by Mr. Frank Powell and Mr. Charles Abbott; Kennedy by Mr. E. F. Lever and Mr. Walter B. Frampton. The appeals were heard separately, that of Kennedy being taken first.

The following report is taken from *The Times* of 23rd May:—

Mr. Powell, in opening the appeal, said that the grounds of appeal raised two questions. The first question was: "Did the refusal of Kennedy's application for a separate trial result in a miscarriage of justice?" The second question was: "Taking the summing-up as a whole, ought the verdict to be allowed to stand?"

The Lord Chief Justice—Do you mean that there was misdirection?—Yes, my lord.

Counsel, continuing, said that if Kennedy had been granted a separate trial, he could have gone into the witness-box and given evidence in his own defence. No one would have been present to put his bad record before the Court, whereas at the joint trial he was unable to give evidence on oath and repeat the contents of the statement which he had made to the police, in which he had accused Browne of the murder, except with the certain knowledge that Browne's counsel would bring out his (Kennedy's) previous convictions and bad character.

The Lord Chief Justice—How can you say that?

Mr. Powell replied that on the day on which an application was made to fix the date of the trial he had a few words with Mr. Lever to see whether they could come to any understanding about the case. They both came to the conclusion that, in view of the gravity of the issues, it was impossible to have any understanding or an agreement of any sort, and that each of them should be free to conduct his defence in the best interests of his client without regard to the effect on the other prisoner.

On the second day of the trial Mr. Lever told him that if Kennedy were called as a witness, and gave evidence that Browne had committed the murder, he (Mr. Lever) would be bound in Browne's interest to take advantage of his legal rights under the Criminal Evidence Act, 1898, and to bring out Kennedy's bad

record. Mr. Lever further informed him that if, on the other hand, Kennedy did not offer himself as a witness, he would also take advantage of the legal position and comment in no measured terms on Kennedy's absence from the witness-box.

Your lordships will see at once the appalling position in which Kennedy was placed. He was on the horns of a dilemma. If he went into the witness-box the whole of his bad record would be made known to the jury, and the jury would have been so prejudiced against him that there would have been no reasonable chance of any explanation which he might give about the case being accepted. On the other hand, if he did not give evidence, he had certain knowledge that Mr. Lever would make the comments to which he had referred, and, in fact, Mr. Lever did make some strong comments. There was a further possibility of the judge himself commenting on his absence from the witness-box, and that might turn the scale against him. It occurred to me that there was a possibility that, in view of the fact that this embarrassing position was caused by the joint trial, Mr. Justice Avory might direct the jury that there were reasons why Kennedy's absence from the witness-box was consistent with innocence. His lordship did not take that course, and the Court knows the way in which he commented on Kennedy's absence from the witness-box.

The two matters which transcended all others in the case against Kennedy, and which, it was reasonable to suppose, caused his conviction, were, first, his absence from the witness-box, coupled with the judge's criticism on it; and, secondly, Mr. Justice Avory's directing the jury about two revolvers being at Browne's garage on the night of the crime without pointing out that the evidence was that of an accomplice (Browne), who had perjured himself on the most crucial matter, namely, the ownership of the fatal revolver. Not only did Mr. Justice Avory not give to the jury any proper direction regarding the value of the evidence of an accomplice, but he gave no direction at all. Those matters could never have arisen if Kennedy had had a separate trial.

If Kennedy had had a separate trial he would not have been giving evidence " against any other person charged with the same offence " so as to permit his being cross-examined with regard to his character under section 1 (f) (iii) of the Criminal Evidence Act, 1898. Browne would not have been before the Court, and what Kennedy said on his own trial would not have been evidence against Browne in another Court on another trial. A state of affairs had been brought into existence from which Kennedy was entitled to be relieved.

The Lord Chief Justice—If I follow you, the underlying doctrine of this is that if two persons of bad character are engaged in committing a crime together they must never be tried together, because the character of the one may hurt the other. They should have thought of that before they set out to do what they did.

Mr. Powell—You have to imagine a case where one of the prisoners is innocent of the crime for which they are both tried.

How much of the summing-up could have been delivered if there had been separate trials? The whole of the judge's comments about Kennedy's not going into the witness-box would have had to be deleted. The whole of the judge's direction relating to the two revolvers being at the garage would have had to be deleted. And those were matters which were most strongly put forward by the judge against Kennedy. Kennedy never had a real opportunity to give evidence, the sort of opportunity which the law allowed anybody who was charged with a criminal offence. His dilemma was too acute.

Counsel further submitted that the case against Kennedy should have been withdrawn from the jury at the end of the case for the prosecution. When the evidence for the prosecution was concluded the case against Kennedy was no stronger than had been the case against Stewart in *Rex* v. *Stewart and Lincoln* (*The Times*, 21st January, 1926). Stewart and Lincoln went to a house to rob, and one of them took a revolver. Stewart was present and assisted at the robbery, but the judge held that it was necessary for the prosecution to prove that he knew that Lincoln was armed and that firearms would be used, and, in the absence of such evidence, he withdrew from the jury the case against Stewart.

The Lord Chief Justice—We cannot examine another case without having before us all the materials in that other case. The question is whether in this case there was sufficient material to go to the jury. That question is not illuminated by a sketchy examination of some other case.

Mr. Powell said that that was why he had wished to go into the facts of Stewart's case. In the present case the prosecution did not prove facts from which the jury were entitled to infer Kennedy's guilt. The prosecution proved that Kennedy and Browne had been associated before the crime, that they were together when the murder was committed, that Kennedy was present when the fatal shots were fired, and that after the murder he continued to associate with Browne, but those facts did not justify any conviction of Kennedy either of being guilty of constructive murder or of aiding and abetting.

On the question of constructive murder, there was no evidence that when Browne fired the shots a felony was being committed. The stealing of Dr. Lovell's motor car (in which, it was alleged, the men were at the time of the murder) had ceased before they met Police Constable Gutteridge.

The Lord Chief Justice—The old words are "steal, take, and carry away." Were they not in the very act of "taking away"?

Mr. Powell replied that there must be some limit to the act of stealing. Otherwise, if a man stole a thing and kept it in his possession for six months, he would still be stealing it in the sense of taking and carrying it away."

The Lord Chief Justice—When do you say that the act of stealing ceases?

Mr. Powell—I say that the taking and carrying away is finished the moment the thief has done all that which is necessary to justify a charge against him of stealing.

Continuing, counsel contended that there was no evidence of any circumstances which rendered the murder necessary.

The Lord Chief Justice—When is murder necessary?

Mr. Powell—I meant, of course, only in the sense of necessary to enable wrongdoers to escape from the police.

The Lord Chief Justice—We have heard much recently of the defence of irresistible impulse. In the future we may hear of the defence of the necessity of murder.

Mr. Lever, on behalf of Browne, submitted that there had been a miscarriage of justice owing to the fact that the two appellants had been tried jointly. The real issue between Browne and the prosecution was whether he was in the motor car at the time of the murder.

That issue depended on three matters—the evidence with regard to the possession of the fatal revolver at the time of the crime, Browne's statements at and about the time of his arrest, and the evidence that he was found to be in possession of a number of surgical instruments and appliances which had belonged to Dr. Lovell. The evidence about the revolvers which had been mentioned in a case was in a terrible muddle, but there emerged from it the probability that Browne's statement that he had obtained the fatal revolver from Kennedy in exchange for an automatic pistol some time after the murder was true. When allowance was made for the confusion which had arisen it was open to the Court to infer that Browne was not consciously lying about the revolvers at all. There was certainly not to be extracted from his evidence any proof that he was the owner of the fatal revolver at the time of the murder. When he was arrested Browne made a number of observations of a more or less violent character with reference to shooting. The jury had heard Browne give evidence and had been able to form an opinion of him and whether he was a man likely to make hasty, groundless, and violent statements. It must be remembered that Browne was arrested after he had been out for two days in his car, and when he was hungry and labouring under very strong irritation. Doubtless what he had said was violent and injudicious, but it referred to the last topic on which a man would enter if he were conscious that he had shot a police constable and that trouble might arise in connection with that crime. The evidence given of the identity of the instruments and appliances found in Browne's possession was inconclusive.

If the evidence on those matters had stood alone and the prisoners had been convicted it would have been impossible to say that there had not been a miscarriage of justice, but in addition to it there was the statement which had been made by Kennedy.

The effect of that statement was overwhelming. It trammelled both prisoners in their defence. It contained the name of Browne in forty places. He (Mr. Lever) had to test it, and he cross-examined to a number of incidents in it, but his cross-examination failed because the statement, except for its central lie, was true. At the trial he had characterised it as a historical novel. It was partly true, but there was fiction woven into it, the lie that was presented in its most misleading form. It was carefully constructed and terribly damaging. Mr. Justice Avory had told the jury over and over again not to pay any attention to it as far as Browne was concerned. But he was telling them to do something which was impossible.

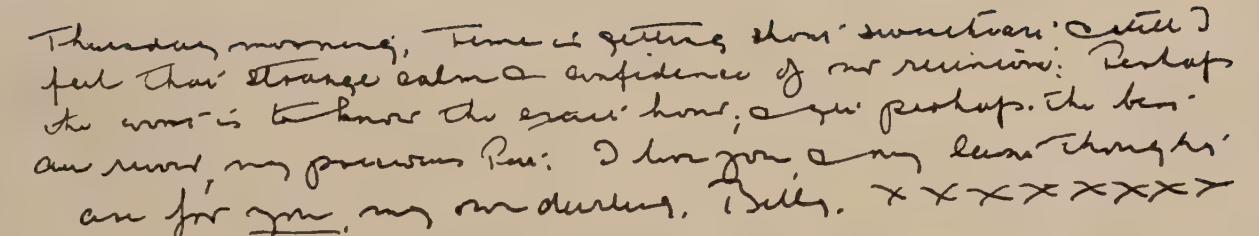
Kennedy was in the dock standing side by side with Browne, and to the last moment he was persisting in his statement that Browne was guilty. Instead of a Court, the scene became one of an arena with a gladiatorial show in it. The jury were looking on and expecting to see these two men fly at each other and fight to the death. It became an indecent spectacle, and in my experience one which has never been equalled in any Court.

Counsel for the Crown were not called on to argue.

The Lord Chief Justice, in giving the judgment of the Court, said that both Browne and Kennedy had appealed against their convictions on grounds which involved solely questions of law, and they had also applied for leave to appeal on questions of fact. In those circumstances neither was entitled to be present, but both had been given an opportunity of being present at the hearing of their appeals. It had been urged that Mr. Justice Avory was wrong in refusing the application which was made at the outset of the trial that the cases against the two appellants should be tried separately. The law with regard to that matter was well settled. It was stated, for instance, in *Rex* v. *Gibbins*, 13 Crim.App.Rep. 134, where the Court said:

"The rule is that it is a matter for the discretion of the judge at the trial whether two people jointly indicted should be tried together or separately. But the judge must exercise his discretion judicially. If he has done so this Court will not interfere, but that is subject to this qualification. If it appeared to this Court that a miscarriage of justice had resulted from the prisoners being tried together it would quash the conviction."

In the present case the experienced judge who had tried it had exercised his discretion judicially, and there was not the faintest ground for the suggestion that any miscarriage of justice had resulted from his decision. On the contrary, the evidence was overwhelming. It was as plain as a pikestaff, and it would have been as plain as a pikestaff if the appellants had been tried separately. There was nothing in the criticism that the summing-up was not fair. He must repeat what he had so often said, namely, that there was nothing in the appeals except that they were in a case of murder.


Thursday morning. Time is getting short sometimes. Still I
feel that strange calm & confidence of our reunion. Perhaps
the worst is to know the exact hour, & yet perhaps. The best
and surest, my precious Rose. I love you & my last thoughts
are for you, my own darling. Billy. XXXXXXXX

Facsimile of portion of Kennedy's last letter to his wife.

APPENDIX C.

Kennedy's Last Letter to His Wife.

Students of the psychology of the murderer will be interested by the following letter, written by Kennedy within a few hours of his execution. While in the condemned cell he was converted to Roman Catholicism. Is this lucubration sincere? I think so, but whether this frame of mind would have survived a free pardon is very doubtful. Locked out of harm's way and out of the way of doing harm, Kennedy had to blow off his emotional steam, and this is the way he did it, probably greatly to his relief and peace of mind.

In replying to this letter, please write on the envelope:—

Number 5528 Name W. Kennedy

Wandsworth Prison.

The following regulations as to communications, by Visit or Letter, between prisoners and their friends are notified for the information of their correspondents.

The permission to write and receive letters is given to prisoners for the purpose of enabling them to keep up a connection with their respectable friends.

All letters are read by the Prison Authorities. They must be legibly written and not crossed. Any which are of an objectionable tendency, either to or from prisoners, will be suppressed.

Prisoners are permitted to receive and to write a letter at intervals, which depend on the rules of the stage they attain by industry and good conduct; but matters of special importance to a prisoner may be communicated at any time by letter (prepaid) to the Governor, who will inform the prisoner thereof, if expedient.

In case of misconduct, the privilege of receiving and writing a letter may be forfeited for a time.

Money, Books, Postage Stamps, Food, Tobacco, Clothes, &c., should not be sent to prisoners, for their use in Prison, as nothing is allowed to be received at the Prison for that purpose.

Persons attempting to communicate with prisoners contrary to the rules, or to introduce any article to or for prisoners, are

liable to fine or imprisonment, and any prisoner concerned in such practices is liable to be severely punished.

Prisoners' friends are sometimes applied to by unauthorised persons to give or send money, under pretence that it will be for the benefit of the prisoners. The people who make these requests are trying to get money for themselves by fraudulent pretences. If the friends of a prisoner are asked for money, either verbally or by letter, they should at once inform the Governor of the prison about the matter, and send him any letter they have received.

Prisoners are allowed to receive visits from their friends, according to rules, at intervals which depend on their stage.

When visits are due to prisoners, notification will be sent to the friends whom they desire to visit them.

Wednesday night 31st/5, 1928.

Pat, my Brave, my faithful Darling,

It is with very mixed feelings that I write this, my last earthly letter to you. Feelings of anticipation, feelings of eagerness, feelings of sadness, but thanks to Our Blessed Lady, I can honestly say, *no* feelings of fear. Feelings of anticipation and eagerness, darling, because I am eager to be once more near you, feelings of anticipation because I anticipate an eternal happiness when you join me. And *no* feelings of fear, my sweetheart, for I have the promise of Our Blessed Lady that we *shall* again be together. A promise renewed this morning again at Benediction. It is now 10.30 p.m. Fr. Douch has not long gone. We said the rosary (sorrowful mysteries) and recited the way of the Cross. At about nine p.m. I could hear you most distinctly calling to me "Oh, Billy, Billy, my darling, I love you." Darling, my whole mind is concentrated on you. Can you feel me with you, I wonder?

The flowers are lovely, my darling. They were divided into three lots. One on the statue of Our Lady, one on the Sacred Heart, and the third on the little altar which has been placed in my room, and is in front of me as I write.

Sweetheart, I hope you were not offended at the return of the photos. I thought you might like to have and keep them, because they had been in my possession. They have been well kissed, my darling. If you look you will no doubt see the marks. You will keep them in memory of me, sweetheart, will you not? The other one, propped up in front of me, I have requested shall be buried with me. It may cheer you a little, or rather it may comfort you, to know that although I shall be buried inside the prison walls, it will be with all the rites of Mother Church, and the grave will be blessed and consecrated first. But the earthly clay only shall be here. My soul or spirit shall be with *you*, my darling. Night and day I shall be with you, and if there be

a possible way, I shall let you know it. Earthly vision is poor, my darling, and it may be that although I can see, hear, and touch *you*, you will be able neither to see, hear, nor feel me. But, darling, *I shall be there*. And, sweetheart, I shall certainly find your dear mother, and join with her in helping and guiding you. Our prayers shall be combined to Our Blessed Lady that you may receive strength and comfort.

Darling, you have told me over and over again that no other man shall fill my place, and that you will remain faithful to me in *thought, word, and deed*. Sweetheart, I thank you and believe you. But my own, when you praise me for giving *you* one week of happiness—well, darling, I am afraid there was no virtue about giving you that, for, darling, in making *you* happy, I was conferring happiness upon myself. No, that is not quite correct. That seems to imply that anybody else could have given me the same happiness. Nobody *could* have done that but *you*, the sweetest girl on earth. Sweetheart, if I told you that I had never *fancied* myself in love before, it would be an insult to your intelligence. I *have*, from my earliest days, but, sweetheart, when I met *you*, then I knew that I had found the pure gold, and the rest was but glittering tinsel. Oh, my sweetheart, the wondrous feeling that I had. And when you told me that *you* loved *me*, then, darling, my cup of happiness was filled. And nobly, my sweetheart, have *you* proved your love for me. Alas! sweetheart, I have not been able to give *you* any proof of my love, except my word, and that I again give you. *You* and *you* alone, darling, are the only true love of my life—this life and the next. Sweetheart, once again I must thank you for the magnificent way in which you have stood by me, stood by me in face of temptations which I know have beset you on all sides. How I regret that *I* too have been unable to give a tangible proof of my love. I did what I could, sweetheart, as you know by now. Sweetheart, you have been wonderfully brave. To-day of course you were upset. So was I, although I think I hid it from you. But, sweetheart, when I asked permission this morning, for you know what, and was refused, I bore a brave face in front of the officers, but when the priest came in, and he and I were alone together, I cried. I could not help it, darling, the disappointment was so great. Oh, sweetheart, sweetheart, come to me quickly. I want you, darling, I want you. Those, darling, are the feelings of sadness. Not that we shall be parted, for death of one but separates us for a time, but that we can not be *knowingly* with each other until you are freed. Do not be long, my soul-mate. I shall wait so eagerly. And then, then, my own precious girl, what happiness shall be ours. Such happiness—for all eternity—as will make our week on earth fade into insignificance. Sweetheart, you do believe it. It will not be my fault if I cannot give you some proof. Your undivided love

will be necessary, my own. Pat, my darling, you pleased me to-day when you told me your plans, and also that you intended to go to Holy Communion every week. Adhere to that, my love, and you will not do any great wrong. Sweetheart, you *will* try and keep my last wish, won't you? *I* know the temptation there is, darling, and the temporary satisfaction there may be. There may be no harm, my darling, but *I* know how men talk (and women too, I suppose.) *I know* what the opinion of men is, and, darling, your dear mother and myself will be watching over you, and you know how it would hurt us if you were talked about in that way. Will you try, darling? But I know you will.

If you attend those meetings, darling (and I shall know), do not forget what was agreed on, and do not tell anybody, nor allow them to press you for money by spurious promises. Isn't it strange, darling, that as *you* were thinking about the thing agreed on I also should get the idea. And yet, perhaps not so strange, because continually I have found our thoughts intermingling. I know, darling, you have a hard task to face—harder perhaps than mine. I have but to die, and by the time you receive this, *my* task will be over, whilst you—oh, my darling, my darling, my heart bleeds to leave you behind to face everything yourself. Would to God you were coming with me, my own. Pat, my darling, my soul-mate, my own, come, come quickly. I want you, darling, I want you. You will come quickly, won't you, and there you will find me waiting. My sweetheart, I shall not say good-bye—except in the old sense of the word—God be with ye. Our word is au revoir. Because we *shall* see each other again, and that perhaps very shortly. Au revoir, my own brave, faithful little wife. God comfort you.

Your own loving, worshipping, and resigned husband,

BILLY.

x x x x x x x x x x x x

Thursday morning.

Time is getting short, sweetheart, and still I feel that strange calm and confidence of our reunion; perhaps the worst is to know the exact hour, and yet perhaps the best. Au revoir, my precious Pat. I love you, and my last thoughts are for *you*, my own darling. BILLY. x x x x x x

I have been re-reading finally all the letters you wrote me here, darling, and have, with all reverence, burnt them. These were too sacred to fall into other hands.

Darling, my last word. I again assert that I had no previous knowledge of what was going to happen that night. I go to my death knowing that and that my statement was true, and that my own darling believes me. B. x x x x

APPENDIX D.

Gutteridge Murder Echo.

Police and Seized Motor-car.

Restoration to its Former Owner.

(From *The Morning Post*, 4th October, 1929.)

Mrs. Browne, the widow of Frederick Guy Browne, who, with William Kennedy, was executed for the murder of Police Constable Gutteridge, was a party to a case heard at South Western Police Court yesterday.

Mr. Benjamin Stowe, of Wadsley Lane, Sheffield, summoned the Commissioners of Police to show cause why an Angus-Sanderson motor-car should not be handed over to him as his property. The car is the one which Browne was driving into a garage at the time of his arrest, and Mrs. Browne claims that it is her property.

Mr. E. W. S. Isaac, in making the application, stated that Mr. Stowe was a butcher carrying on business in Sheffield. On 15th June, 1927, he bought an Angus-Sanderson car in Sheffield for £65. In the following March something went wrong with the car, and Browne, who was in Sheffield, told him what was wrong and offered to put it right.

Browne put it right, and was paid for his work. Early in November Browne came to his shop with a Vauxhall car, and this he offered to Mr. Stowe for £175. Mr. Stowe eventually agreed to give Browne £100 and his Angus-Sanderson for the renovated Vauxhall.

On 10th November Browne delivered a Vauxhall—not the same Vauxhall—and received his £100 and the Angus-Sanderson. A few days later Mr. Stowe was informed that the police suspected the Vauxhall was stolen. Mr. Stowe gave it up, and had not seen it since. The Vauxhall turned out to be stolen, and it was returned to its owner.

The Angus-Sanderson was retained by the police, and Mr. Stowe lost his £100 as well as his Angus-Sanderson and the Vauxhall.

Detective-Sergeant Akthurst, on behalf of the Commissioner, said that the Commissioner had no objection to any order the magistrate might make.

Inspector Barker said that the police took possession of all the property in Browne's garage, including the Angus-Sanderson and five other cars. Three of the six cars proved to have been stolen, and were restored to their rightful owners.

Mr. Campion, the magistrate, said that he found as a fact that the Vauxhall was a stolen car. The question then remained whether the property of the Angus-Sanderson was vested in Browne or Mr. Stowe.

Mr. O'Connor, for Mrs. Browne, said that he was not claiming the car for Mrs. Browne, but he was disputing the right of Mr. Stowe to it. "I never claimed it," added Mr. O'Connor, "simply because Mrs. Browne wanted to forget all about this business, but there has come a time when she feels bound to assert her rights in the matter."

The magistrate ordered the car to be delivered to Mr. Stowe.